TOWARDS INTERNATIONAL JUSTICE

BEING A COLLECTION OF ESSAYS AND PAPERS ON INTERNATIONAL ORGANISATION AND THE LEAGUE OF NATIONS

BY

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BARRISTER-AT-LAW, OF THE MIDDLE TEMPLE, AND THE PARLIAMENTARY BAR

WITH AN INTRODUCTION

BY

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INTRODUCTION

MR. KEEN was one of the first and most active members of a small group which from 1915 onward, during the whole length of the war, devoted itself to thinking out in consultation the possible organisation of ulterior peace. His contributions were the more welcome because he combined with his zeal for the cause both an independent and lucid judgment and great knowledge of public law. It would have been a serious loss if these papers had not been collected and re-published.

In many ways the essays bear their dates upon their faces. The reformers all began, as it was natural they should, by thinking out the sort of organisation they really wanted, and ended, as was inevitable, by accepting such organisation as they could get. While the League was in the realm of theory, it was constitutional questions which loomed largest; since it has come to the region of fact, it has been questions of diplomacy. Mr. Keen was one of those who believed emphatically in the need for what he calls "the big jump" in order to cross the chasm that opened before Europe.

He wanted an International Council—the members chosen, as Plato would say, for their "justice and wisdom" rather than their agreement with the Governments of the day—which should have power "to settle all differences" between States, including alterations of boundaries. The voting strength of the nations was to be apportioned on a reasonable scale, so that two-and-a-half million Norwegians should no longer counterbalance, as they do now, forty million French or four hundred million Chinese. International Law, now so hazy and incomplete, was to be definitely codified and put in force. An International Court was to be set up, with compulsory jurisdiction, with the right to summon offending nations before it, and with power to see its decisions enforced. The Council was to have legislative powers, overriding where necessary—on international affairs—the various national parliaments, and the cadres of an international army were to be formed out of contingents furnished by the separate nations, on the model of the old English *fyrd* or national militia.

None of these desirable things have come to pass, though most of them remain as ideals to be pursued in the future. There is only one whose failure I do not regret. For I count it among the few pieces of good luck which the League has enjoyed, that there has so far been no international force. It would have been recruited from those nations which now maintain large armies; it

would have had a French Commander-in-Chief, and Heaven knows where it would have been or what it would have been doing by this time. Until the League has earned public confidence by its justice it would be madness for it to try to impose its will by military force.

What has come to pass is something so free, flexible and modest, that one almost hesitates to confess how little it amounts to. It is certainly very far removed from a super-state. There are, practically speaking, only two broad obligations binding on the members of the League: first, not to make war about any dispute until they have tried, with the help of the other members, to settle it peacefully; and secondly, to have regular and frequent conferences. There is a large Assembly and a small Council to make "recommendations" and "decisions," but no nation need pay much attention to either unless it happens to approve of them. If the national Governments in conference are unanimous, they will presumably act together: if they are nearly unanimous, the few dissentients will probably feel uncomfortable. That is all. There is a Court to which they may go if they like, and which they promise to obey if they do go to it. But there is no one to make them obey. There is a Council to recommend the steps to be taken against a deliberate war-maker, but no nation need agree with the Council unless it likes. The whole strength of the League lies

in the machinery for constant conference and discussion. A nation cannot any longer simply impose its will by naked force; it cannot any longer plot in secret against its neighbour. It is compelled to submit to question and to explain itself. And meantime, in uncontroversial matters, it is being accustomed to co-operation, to publicity and to the pressure of disinterested world-opinion. And perhaps it learns to consult in difficult questions the most really novel and remarkable body which the Covenant has called into being, the permanent International Secretariat at Geneva. The successes of the League have been due in part to its freedom and flexibility: and I do not think that any of its difficulties or failures have been due to any undue looseness in the Covenant. No doubt the Covenant might be improved, but so far no improvement would have had any practical effect. The failures of the League have been due to external causes.

It was meant to operate in a pacified world. The world is not yet pacified. It was meant to be universal. It is very far from universal. Russia is hostile. America remains alien. Germany, mistrustful from the start, is now more mistrustful, because her absence has left her without a voice in the League counsels, while her enemies have been present and industrious. The German cause has inevitably suffered in consequence. And lastly, the crushing disasters of

Central Europe, the enforced disarmament of the ex-enemy nations and the willing disarmament of many others, have left France alone, bristling with arms and flushed with hard-earned triumph, able to assert her sovereign will over Europe without troubling the rest of the League for their assistance or much regarding their disapproval. Forty millions are not normally the equal of seventy millions. But the seventy are now broken and prostrate at the feet of the forty, and, as long as they can be kept there, and their heads bludgeoned if they attempt to rise, the forty can feel serene and confident. The only Power capable of remonstrating with France is Great Britain; and Great Britain has strong reasons to make her reluctant to take up that ungrateful rôle. The result is that the League, which was meant, among other things, to be the guarantee of France's permanent safety against future German attack, has nothing to offer her half so brilliant as the rôle she now enjoys. The League can offer her a position of equality with other nations, backed by the payment of such of her claims for reparations as can pass the scrutiny of an impartial tribunal, and the assurance of protection as long as she behaves well. Such an offer strikes Frenchmen in their present mood as almost an insult. Until either there is some recovery of wise statesmanship in France, or the extreme precariousness of the present position is in some way forced upon the public conscious-

ness, I am afraid that we shall continue in all major matters of policy to find the path of the League blocked and its arm paralysed.

But, meantime, the League exists and has had, wherever it could move freely, very great practical success. When its hands are clean it can not only stop wars, and settle differences that without it were inextricable, it can rebuild a ruined nation. And while the practical diplomats try to appease the storms outside, it is important that thinkers, like Mr. Keen, should work for the perfection of the machine itself. His criticisms, sparing as they are, seem to me without exception valid. It is true that in the days before the League arbitration had succeeded mainly in settling disputes which would not in any case have led to war (p. 25): it has done more than that now. It is true that if we could any longer operate with the idea of the "eight Great Powers" acting in concert (p. 88), prospects would be infinitely brighter than they are. It is an acute observation that the Preamble of the Covenant is more ambitious than the Covenant itself, and the reason is clear enough. The Preamble represents a hope, the Covenant an attainment. It is to my mind eminently true that Article 10, which was once considered to be the very centre of the Covenant, has now been found to be vague, dangerous, and perhaps superfluous, while Article 18, which annuls all international treaties or engagements which are not published

and registered with the League, turns out to be the very touchstone of the League spirit. There are difficulties in detail about the scope of this article ; but if only in its simplest and broadest sense one could be sure that it was now being loyally observed, what a cloud would be lifted from the mind of Europe !

It is not always that a theoretical thinker in the fields of practical politics finds his forecasts supported by results. But I venture to think that Mr. Keen laid his finger on the spot when he emphasised two points ; the immense practical importance of the Secretariat, a body in which League principles become a matter of pride and almost of professional etiquette ; and on the fact, corroborated by all recent experiences, that the authority of the League rests not upon the organisation of force, but on the sanction of publicity and the appeal to world-opinion. Wherever the League can convince all fair observers of its disinterested will for Justice it will be strong ; wherever it fails to do that it will fail in everything, though it be backed by irresistible armies.

GILBERT MURRAY.

CONTENTS

THE WORLD IN ALLIANCE

A PLAN FOR PREVENTING FUTURE WARS

I. War and Peace.

I MAKE no apology for discussing the subject of the prevention of war at a time when Britain is engaged in a great struggle with European nations. However strenuous may be the efforts put forth by the British people, I think non-combatants, at any rate, can spare some moments for considering what is to happen when the war is over, and studying the possible means for avoiding in the future the pains and the hardships which war brings upon mankind. Indeed, the moment is in one respect the most opportune for the discussion. The problem of the prevention of war is, it will readily be conceded, one of the most difficult that can be presented for solution, and all the imagination and ingenuity of the thinkers of the world will be taxed to the full in resolving it. Ease and comfort are often the foes of arduous thought, and in a time of peace sufficient stimulus may be lacking to force the nations to invent for themselves the machinery which can save them from the risk of war. The actual existence of a great and terrible war keeps

constantly pictured before men's minds the need for that machinery.

No one can say how soon, or in what manner, the opportunity may arise for taking some practical step towards prevention of future wars. It is well to be prepared betimes, and not to postpone a day longer than is necessary the consideration of possible plans for attaining the ultimate object in view. Preparations for a peace-campaign, like those for war, need making in advance, and it would ill become the British people, when, perhaps suddenly, the avenue opens for some advance towards the institution of permanent peace, to be lacking in equipment for the march and a clear conception of the possibilities and difficulties involved. Without prejudicing or interfering in any way with the necessary output of effort for bringing the present war to a just and satisfactory conclusion, I think some preliminary preparation is possible for the task, perhaps still more arduous and difficult, which must be undertaken when it is over and peace is declared.

I shall not waste time by seeking to demonstrate that war is an evil thing—the man who cannot at this moment convince himself of that truth must indeed be mentally blind—or in disputing that war may be credited with some redeeming compensations. I think the vast majority of people in Europe to-day would concede at once that the evil outweighs beyond all measure the compensating advantages. But for the benefit of those who attach greater value to the advantages, it may be worth while to inquire whether these cannot be secured without the accompanying evil; just as the pleasure of eating roast pig may be

attained, as Elia's sage eventually discovered, without first burning down one's house in order to do the roasting.

Among the advantages sometimes attributed to war three alone seem of sufficient importance to deserve mention. One, and this the most frequently urged, is that war and the training for it develop noble qualities of strength, courage, activity, alertness, and endurance. One must pause to point out that these qualities are, largely at any rate, balanced by the undesirable qualities that war may engender, and that they are far outweighed by the positive evils that war brings in its train: the pain, the death, the loss of health, the loss of wealth, the thousand grievous wrongs and burdens thrown on the populations of both belligerent and neutral countries. But what I am seeking to draw attention to at the moment is that these advantages, even if they really do emerge from war, could be secured by other means.

The qualities I have mentioned can be brought out just as effectually by the struggle between man and the forces of nature in the production of wealth and happiness, as by the struggle between man and man in that system of organised destruction which we call war. That this is true in the case of the struggle with the sea is surely obvious when you think of the training, and look around at the human product, of the fisherman's life and occupation. If hardihood be the all-important blessing it is represented as being, we might do worse than require all our youth, on leaving the school or the university, to go through a course of travel and training at sea on Government ships engaged in some useful work. They would come

back with strength, courage, activity, alertness, and powers of endurance certainly developed, and with some knowledge of seamanship, if not of other useful crafts as well. And who will suggest that they would be likely to come back with any increase of brutality, destructiveness, or other undesirable qualities?

But it would really be unnecessary to glut the ocean with this temporary conscription of all the nation's youth. There are plenty of other fields in which the desired qualities could be sufficiently evolved by disciplined training in strenuous physical work, and, to some extent, in actual struggle with the forces of nature. The engineer, the afforester, and the agriculturist, to mention only three, could provide great training grounds in which our youth could be placed, and organised, and disciplined under official instruction and régime, so as to acquire those robust qualities which are supposed to be the fruit of the barracks and the battlefield. Placed in such surroundings they could remain pure from the taint of brutal aims, and would be getting knowledge of a kind helpful for the construction and maintenance, instead of the destruction, of human society.

But one is tempted to go further and ask whether even these means of training are necessary; and whether, after all, our instructors of youth may not have been going on right lines in seeking, by the introduction and gradual extension and organisation of gymnastic exercise and athletic recreation, to develop in moderation physical qualities of a hardy and active type.

The next alleged advantage of war is that it leads to self-sacrifice by the individual for the

benefit of the State. Whether this is always and necessarily an advantage may be open to some controversy, involving the wide question of the relative importance of the State and the individual, into which I do not propose to enter. It is enough for me to say that, in any case, it is an advantage that does not arise solely from war, and, indeed, one that is better secured by peace than by war. Peace, like war, has its sacrifices, as well as its victories ; and the sacrifices of peace are generally prolonged, while those of war are concentrated into a brief time. To live for your country is even better than to die for it. Long years of patient and devoted service for the common good will generally mean more, both in sacrifice and in usefulness, than the undertaking of the temporary risks and efforts entailed by war.

The other noteworthy advantage claimed for war is that it leads to the destruction of inferior nations, or the diminution of their deteriorating influence, and to the increase and spread of the influence of superior nations. Those who lay stress on this may be answered shortly by saying that ability to succeed in a war is no evidence of general superiority of a nation, any more than ability to deliver a knock-out blow or to prevail in a duel is evidence of general superiority in an individual man. Success in war may indicate the possession of a certain resourcefulness and businesslike quality, which we commonly describe as efficiency ; but efficiency is not the be-all and the end-all of existence. It is only one limited side of human character, and may easily, and probably at the present moment in Great Britain does, receive an undue measure of worship. More-

over, the influence of an efficient nation may be increased, and the influence of an inefficient nation diminished, by other means than war, just as efficiency may be elevated, and inefficiency depressed, among individual men without aiming at the extinction of life.

So there seems little substance in the allegations put forward in support of the advantages of war. On the other hand, there is great substance in the allegations that can be put forward in support of the advantages of peace. A secure peace recommends itself, not only by the absence of the evils of war, but by incidental gains as well. First, and most obviously, it diminishes the need for armaments and for the burden of expenditure and taxation they entail. What increase of prosperity lies ready for European peoples when a great part of that burden can be cast off the Chancellor of each European Exchequer could doubtless tell. The first Hague Conference was summoned by the Czar of Russia in 1898 with the express object of stopping the progressive development of armaments, and, though it found the difficulties insuperable in the way of any practical advance towards this aim, it passed, before separating, a resolution to the effect that the restriction of military budgets was extremely desirable, and recorded its wish that Governments would examine the possibility of an agreement as to the limitation of armed forces and war-budgets.

But over and beyond the reduction of armaments a condition of secure peace between nations would render possible much closer co-operation and inter-relation in all departments of life—political,

commercial, social and intellectual—than can be achieved when war or its shadow passes at intervals over the boundaries dividing the different nations. Who can measure the possibility for good which lies in such free co-operation and such close and secure interrelation between different peoples, each of whom can make valuable contributions to a common stock?

Passing from savagery to civilisation, from slavery to freedom, from ignorance to knowledge, mankind has reached what appears to our view as a higher and nobler type. So, again, in quitting the practice of war, and entering into the assurance of peace, a new and as yet unrealisable development of character and type may await the races on whom this regenerative change will fall.

II. The Problem.

The problem which ought now to be faced and solved by men of peaceful intent is, how to make war henceforth impossible. It is a problem which so far the nations can hardly be said to have made any substantial attempt to solve on general lines; and it is a problem different in character from those in the solution of which some practical progress has in recent years been achieved as a result of The Hague Conferences.

The Hague Conventions have established a code of arbitration procedure and panel of arbitrators, and a permanent bureau at The Hague, with a view to facilitating the reference of disputes between nations to arbitration. They have also made provision for constituting commissions of

inquiry, and for facilitating independent mediation between nations who are in serious disagreement. The arbitration procedure is judicial in type, and is scarcely appropriate for the settlement of disputes that depend, not on legal right, but on broad policy. Subject to a slight exception in the case of the convention for the recovery of contract debts, there is no compulsory obligation to resort to the arbitration procedure; nor is there any compulsory obligation to submit to a commission of inquiry. The provisions as to mediation are merely recommendations to the signatory Powers.

Several nations have gone beyond the limits reached by the general body of nations represented at The Hague Conferences, and have entered into treaties providing for the submission of certain questions arising between them to arbitration; but these treaties, generally speaking, except from the scope of obligatory arbitration differences affecting the independence, honour, or vital interests of the parties; and most of the grounds of quarrel which are likely to give rise to war come within these reserved exceptions. Each nation is itself the judge as to the definition of its own quarrel, and it cannot be expected that a nation, seriously eager to go to war, would find any difficulty in determining that its independence, honour, or vital interests, stood at peril in the dispute. Nor can it be supposed that the existence of arbitration machinery at The Hague would be sufficient to deflect the bellicose spirit of nations in their graver and more serious quarrels; or that nations on the brink of war would in many cases be content to pause and watch each other's warlike prepara-

tions, while well-intentioned mediators strove to exercise pacifying influences or suggest lines of accommodation.

I think it is not unfair to say that the international arrangements made so far are mainly calculated to deal with disputes which would have a good chance in any case of being settled without recourse to war.

The existence of the great European struggle now proceeding shows how ineffectual to prevent the calamity of war have been the creative efforts of pacifists hitherto. The pacifists have erred, I fear, by failing to recognise the precise character of the problem that has to be faced, and in thinking that small steps of progress will avail where the real need is for a big jump to carry mankind safely across a deep abyss.

The work of The Hague Conferences has largely consisted in the enunciation of rules for observance during war in cases where all the parties concerned, belligerents or neutrals as the case may be, have assented to those rules. However restricted the operation of the rules may be, and however much they may be strained or even disregarded by belligerents amid the passions and needs of war, the rules are, of course, some gain to humanity in themselves, and some earnest of a progressive spirit. But even if all the rules had been assented to by all the principal nations of the world, which they have not; and even if it could fairly be assumed, which it cannot, that every war would be conducted strictly in accordance with those rules, or even with rules considerably more stringent and humane, war would still remain a gross, savage, barbarous, wicked,

and stupid thing. The remedy needed for it is not regulation but extermination.

War can never be exterminated unless either the causes that give rise to it are removed, or else some other remedy for those causes is made to prevail, and thus the way is cleared for its effectual prohibition. The Hague Conferences have contributed comparatively little towards the removal of the principal causes of war, and by way of remedy they have, as I have already indicated, only provided means for voluntary recourse to tribunals which, however suitable for dealing with some of the smaller grounds of difference that from time to time arise between nations, have little chance of being accepted as arbiters of the great national quarrels in which war finds its origin.

Let us consider for a moment some of the deeper causes which often lie at the root of wars. Perhaps they may be indicated roughly as follows :—

National hatred, envy and covetousness.

Objection of people of one race to be governed by people of another.

Discontent with corrupt or oppressive government.

Overflow or migration of population, giving rise to the desire for a consequential extension of territory.

Inadequacy or inconvenience of territorial limits.

Thirst for power, dominion, and status.

Does it seem antecedently probable that a powerful and populous State, enjoying unlimited sovereignty within its own territory, would be content voluntarily to submit the question of its

rightness or wrongness on all such matters as these to the judgment of, say, five learned and highly moral jurists, professors, or savants sitting at The Hague? And would it be likely to submit peaceably and contentedly to the directions of the five learned gentlemen in all the consequences flowing from such causes? I fear not. And yet this is substantially the remedy offered by The Hague Convention for pacific settlement of disputes.

On the other hand, what sense is there in referring to the arbitrament of war the quarrels arising out of such causes?

How can success in war prove that acts of spoliation or threats of aggression are based on just claims, and not on hatred, envy, or covetousness?

What test is war of the justice or injustice of transferring territory from the dominion of one State to that of another, whether it be on account of racial differences, misgovernment, migration of population, or any other cause?

Is failure in war any proof that a nation is wrong in its claim to have some outlet for its trade or population, some adjustment or improvement of its boundaries?

Is the power to invoke war a sufficient protection against vaulting ambition or lust of power and place?

The fact is that war never has proved, and never can prove, anything more than that A can beat B, or B can beat A, in war.

Can it be said that sense or intelligence prevails in the world when nation A, smarting to the quick under some deep sense of injustice in the regulation of its concerns with nation B, has no means of relief except an appeal which decides, not whether

the injustice is real or ought to be put right, but merely whether nation A is stronger, more persistent, or better equipped with military or naval skill, or with men, money, or weapons of destruction than nation B?

It is time that conscience revolted against the inadequacy of the present order, and revolted so effectually as to force the minds of men to invent some new order, some intelligent method, some machinery of justice which shall bring assurance of relief to nations wronged, oppressed, or hardly used, and shall save them from the intolerable burden of having to seek redress by war or to resist warlike attacks.

I have said that the extermination of war involves one or other of two alternatives, either its causes must be removed, or else the way must be paved for its effectual prohibition by providing another remedy.

He would be a bold man who would assert that anything, even the removal of the causes of war, is downright impossible. But he would also be a bold man who, looking back at the list I have already given of some of those causes, would assert that they are capable of removal without some marvellous change in the nature of man, far outside the range of anything that our present powers of mental vision can picture. Let us, therefore, dismiss into the region of dreams the thought of removing the causes of war, and concentrate attention upon the other alternative. It involves that somehow war must be prohibited; somehow the prohibition must be enforced; and somehow other remedies must be provided for the causes which now give rise to war.

How these things may be achieved I shall presently try to show.

III. Lessons from the Past.

He who would legislate wisely for the future had best begin by looking at the past. Such steps as the nations have already taken towards regulation of their mutual relations may well indicate the paths along which they can be induced to make a further progress; and so in planning a scheme for the prevention of war it is well to take guidance from the past efforts and achievements of statesmen and diplomatists in the creation of international institutions.

But useful guidance may also be obtained by considering the means through which a nation within its own borders has succeeded in regulating such matters arising between individuals or groups of individuals as bear some analogy to the matters arising between nation and nation. For, after all, in the modern world, with its ease and speed of world-communication, its extent of world-trade, and closeness of world-intercourse, the whole of the civilised nations together resemble to some extent one great community, compounded of diverse elements and conflicting units, but still having a common life.

From the history of our English Constitution we may derive, not only guidance, but hope and courage for our task. Various elements in our political growth can be laid under contribution, and we can look back to one period at any rate, and that an early one, when the progress has been

striking, and the change rapid, from a state of conflict to a state of peaceful co-operation. Our first Plantagenet King, Henry II, and his great Justiciar, Ranulf Glanvill, came into power after the long period of civil strife during which, while Stephen nominally reigned, the country was practically under the domination of unruly and warring barons. Henry and his Justiciar, by a course of wise, enlightened, and courageous statesmanship, in thirty years not only brought the country out of a chaos of division and oppression into order and the rule of law, but laid a considerable part of the foundation of the system of administration and legislation which has broadened out through the centuries into the free constitution under which we now live.

In the constitution so developed under Henry II and his successors what has contributed most to internal peace? Some would probably say the cementing of the country together in union under a strong monarchy, as the central national Government, tracing its power back to an effective Conquest, and prevailing over the nobles through being the source and origin of their subordinate authority. I think this answer is inadequate. Conquest and a strong hand do not by themselves afford any sufficient guarantee of the ultimate prevalence of peace and order within a country. If it were so, tyrants might rejoice. The continuance of strength in the governing hand through centuries of history depends upon the methods by which the strength is manipulated, and the purposes to which it is applied. There is a considerable measure, at any rate, of truth in the proposition that all government ultimately depends

upon the consent of the governed. In order, therefore, to explain satisfactorily what elements have contributed most to internal peace in England we must inquire further what are the chief causes that have enabled the Government to continue strong and national. I think they may be stated under three heads.

First and foremost I place the existence of a Parliament, regularly summoned, representative of the whole people, and controlling the monarchy in the making of general laws, in the making of special laws for dealing with particular emergencies, and in the exercise of executive power.

Next I place the practice of regulating the conduct and interests of the people by laws, publicly made, publicly known, publicly administered, and freely changed in response to the requirements of the people.

And, thirdly, the provision of effective machinery for the administration and enforcement of the laws, and the preservation of "the King's Peace," by close association of the people of each locality, and local officers, with the central authority.

These were the main securities which helped the English people to submit to the dominion of peace and order, and to banish the practice of self-redress. We may distinguish them as "the parliament," "the law," and "the enforcement of the law." Some security analogous to each of these will probably be necessary in order to induce the nations to surrender the right or practice of mutual destruction and violent self-redress, and submit to the obligation of respecting and preserving "the World's Peace." Let us see what progress has been made towards the provision of such international securities.

First as to the Parliament. Already there may be detected some shadowy precursors of an International Parliament to come.

The Hague Conferences of 1899 and 1907 were attended by eminent persons representing the Governments of twenty-six and forty-four States respectively, and resulted in the elaboration of some few international laws accepted as binding, subject to certain reservations, by the States that chose to ratify the conventions in which the laws are set forth. Each Conference was summoned on the independent initiative of one State, but the 1907 Conference in paragraph 4 of its Final Act recommended to the Powers the assembly of a third Conference which might be held within a period corresponding to that which had elapsed since the preceding Conference, at a date to be fixed by common agreement between the Powers. Its session would thus be due in 1915.

The forty-four States represented at the 1907 Conference were the following :—

America (United States of)
Argentina
Austria-Hungary
Belgium
Bolivia
Brazil
Bulgaria
Chile
China
Colombia
Cuba
Denmark
Dominican Republic
Ecuador
France
Germany
Great Britain
Greece
Guatemala
Hayti
Italy
Japan
Luxemburg
Mexico
Montenegro
Netherlands
Nicaragua
Norway
Panama
Paraguay
Persia
Peru
Portugal
Roumania
Russia
Salvador
Serbia
Siam
Spain
Sweden
Switzerland
Turkey
Uruguay
Venezuela

Special congresses of representatives of particular nations have from time to time been summoned to make special laws, by means of treaties and conventions, for meeting particular circumstances.

The six Great Powers of Europe have, in concert, settled various questions in which the interests of Europe as a whole, or parts of Europe, have been concerned. On some recent occasions these six Great Powers have joined with the United States of America and Japan and formed a world-concert for the discussion and resolution of particular questions. During the Peace Congress in connection with the recent Balkan War, a conference of the Great European Powers sat in London, and, by negotiation and adjustment, settled various matters which might have created difficulty at the time over a wider European field than that directly concerned in the war.

Several international congresses or unions of a more or less permanent character have been created, such as that constituted under the Universal Postal Convention, with its international post office at Berne.

These several pieces of machinery, though each of them affords evidence of the need for some organised international body, do not any of them bear much resemblance in point of authority, scope, constitution, or permanence to the International Parliament which the nations must have as their trusted security if they are to be expected to surrender the right of going to war.

Next as to the law. Already some slight progress has been made in the direction of the creation of a body of international law. But how insufficient is the field regulated by such law, how

uncertain and variable and how little understood are the laws themselves, and how insecure is the basis upon which their recognition depends, every open-minded international jurist must admit.

One of our exponents of international law, describing it in general terms, says that "it is habitually deficient in that coercive side of the term law, which is above all others essential and characteristic. All civilised nations agree that they are bound by its principles, and in the majority of cases find it convenient to observe them. On the other hand, these principles are not infrequently violated, and breaches may be consecrated by adding successful violence to the original offence. In reality the sources of its strength are three: (i) a regard—which in a moral community often flickers but seldom entirely dies—for national reputation as affected by international public opinion; (ii) an unwillingness to incur the risk of war for any but a paramount national interest; (iii) the realisation by each nation that the convenience of settled rules is cheaply purchased, in the majority of cases, by the habit of individual compliance."

As regards my third heading of security, namely, the enforcement of the international law, very little seems to me to have been achieved, and very little even attempted, thus far.

Forces have operated on behalf of several Great Powers in concert on a few occasions, it is true, such as the blockade of Crete in 1897, the expedition to Pekin in 1900, and the demonstration at Antivari and occupation of Scutari in 1913; but, speaking generally, the nations have been content to assume that for the performance of

obligations under international law we must trust to powers of persuasion, or to a nation's sense of honour, except so far as performance can be enforced by one nation levying war against another.

To quote again from the writer just mentioned, in reference to treaties, which he describes as the contract law of States, he proceeds to say, "and it is in dealing with their enforcement and duration that international law most conspicuously fails. In the absence of a supreme authority capable of developing a system of law and enforcing its decrees, all rules are of the nature of suggestions for the guidance of conduct; and while nations are so careful as they are at present to reserve their right of action on questions concerning their honour and vital interests in all general submissions to arbitration, the rules applicable to treaties of the more important kind, which do not merely deal with points of detail, must remain largely in the region of 'pious aspirations.'"

Another writer says, "Most of the iniquities of nations are varnished over by some justifying plea, and the only tribunal in the case is the moral indignation of mankind, while, after the crime has triumphed, mankind accepts the new order of things, rather than have a state of perpetual war."

That order and observance of law should be secured by moral force and persuasion is an attractive idea, just as it is attractive to think of children being led to do all that is right by precept and gentle admonition, without the imposition of any pains and punishments, or the pressure of any compulsion. But I fear that in this childhood of the world, at any rate, the idea

is not practical but delusive. Whatever may happen in the ideal conditions of a distant and rosy future, when a love of justice between States may have been developed through the habit of doing just things, and men's thoughts may have become permeated with a deep sense of the common good of nations, there is no chance that in this rough and unpolished present rights can be made secure, and injustice prevented, save by the existence and operation of some effective means of compulsion, restraint, and punishment. Before the nations can attain to that gracious spirit which will make obedience spontaneous and righteousness supreme, they must pass through a long schooling under the guidance and direction of controlling authority.

IV. The Solution.

And so now we are brought to the stage of suggesting a solution for the problem under consideration, and exhibiting in outline such a scheme as the nations can, if they will, bring into practical working, in order to secure peace and goodwill among men.

I would propose, in the first place, that the international scheme should apply to the relations between the territories, whether situate in Europe or elsewhere, under the sovereignty of all the States that, either in the first instance or subsequently, agree to enter into it. These territories I refer to hereafter as the State territories.

I would constitute a permanent International Council with the widest possible powers of altering

State boundaries, and adjusting all relations, and settling all differences, between States, and between the subjects of one State and the Government or subjects of another. I should propose that upon this Council each of the States should have one representative, and each State having within its State territories for the time being a population exceeding a fixed number should have one or more additional representatives according to a graduated scale. In this way I would try to give a roughly just and fair measure of preponderant influence to the more populous States.

Population is not the full measure of importance of a State, and a constitution which gave a weight to component States strictly proportioned to their relative populations would, I think, work manifest injustice to many small States. By starting, however, with one representative per State, and giving additional representation, not strictly according to total population, but on a graduated scale, the added strength of representation diminishing as the scale of population ascends, I think rough justice might be done. Population is a thing that can be accurately measured, whereas other elements in the importance of a State are difficult, if not entirely impossible, to assess. The main object of laws and governments ought to be to secure the happiness, and study the interests, of the bulk of the people governed, and not that of a select or prominent few. Population ought, therefore, in any case to rank as the most important element in the apportionment of power.

The form of the graduated scale is obviously of great importance, but, still, it is relatively a matter of detail, and as such I prefer not to make

any definite suggestions with regard to it here. One may, however, merely for the sake of illustration, show algebraically the sort of way in which a scale could be constructed. Thus :—

Each State whose State territories include a population not exceeding x would have 1 representative.

Each State whose State territories include a population exceeding x, but not exceeding $3x$, might have 2 representatives.

Each State whose State territories include a population exceeding $3x$, but not exceeding $6x$, might have 3 representatives.

Each State whose State territories include a population exceeding $6x$, but not exceeding $12x$, might have 4 representatives.

Each State whose State territories include a population exceeding $12x$ might have 5 representatives.

(Whether the scale should jump thus from $1x$ to $3x$, from $3x$ to $6x$, and thence to $12x$, and whether it should go so far as, or should stop at, $12x$ and 5 representatives, or ascend with further graduations, would depend to some extent on the number fixed for x, and on the number of States comprised in the scheme of representation.)

The International Council should sit in such locality as might prove most suitable for the centre of the international organisation, and preferably at The Hague. Its members would probably be obliged to devote their attention exclusively to the work of the Council, but whether this should be made a binding condition at the inception of the scheme is open to question. It might be thought that this would in some cases prevent the Council

from obtaining the services of the most capable subjects of the component States. I am inclined to think that the importance of securing the constant and undivided attention of the representatives upon the work of the Council, and the study of the problems before it, is such as to make it better to run some risk of losing a few individuals of the greatest eminence rather than to permit a division between national and international service. I should expect that, in fact, the great power and conspicuous position of the representatives, and the magnitude of the interests committed to their charge, would result in the successful selection by each nation of those of its subjects most fitted for the office.

The members should hold such qualifications, conform to such conditions, enjoy such status, and hold office for such periods as would be best calculated to secure their independence and a fearless discharge of the high duties of their office, and at the same time to give them a sufficient closeness of touch and harmony of opinion and sentiment with the people they represent.

This method of constitution would necessarily involve that the Council would be a large body, if, as I assume to be the case, the international scheme would be shared in by about as many States as joined in The Hague Conference of 1907, and would include the principal States of Europe and America, whose populations would necessarily entitle each of them to several representatives. But in my view a large body, as well as a supremely competent and representative body, is essential for the success of the scheme. No small body would be trusted by the world with a

continuing power of settling large questions of international policy which might arise in future years. A small body could not be expected to contain within its membership sufficient extent and variety of knowledge and aptitude for grappling adequately with the subjects which must come before it, and discharging the functions with which it must be invested; nor would it have sufficient range of choice for selection of the numerous committees with whose assistance much of its work must in all probability be accomplished.

The different methods by which a supreme international representative assembly would need to deal with different types of business under its general cognisance may be illustrated from the experience in modern times of English parliamentary government within its more limited field.

The determination of the general laws by which the conduct of the whole people shall be regulated has been recognised, under the English Constitution, as a function to be shared in by the whole Parliament, and only in recent years, when the growing complexity of the social organism has rapidly increased the required output of legislation, and overtaxed the parliamentary machine, has the practice arisen in the House of Commons of referring the detailed consideration, clause by clause, of important public Bills to large Standing Committees, instead of to the whole House sitting in Committee. Probably the International Parliament would reserve in its own hands, as a whole body, the lion's share, at any rate, in the work of settling the codes of general international law, to which I refer later on.

The English Parliament deals differently with

what we describe as "local and personal" legislation. By this is meant the making of special laws to meet the special circumstances of particular localities, or of individuals or limited classes of individuals. The full parliamentary assembly reserves to itself, it is true, complete power of determining whether such legislation should be passed or not, and in what form, and often intervenes to exercise that power in cases where important questions of principle are concerned, or specially large interests are at stake. As a general rule, however, it leaves both the principle and the detail of such legislation to be settled by a small committee of members having no personal interest in the subject-matter of the legislation, and acting in a semi-judicial capacity rather than in the ordinary manner of a representative body. The local authorities, companies, persons, or bodies, specially interested in the matters in issue, are allowed to appear before the Committee, and present their respective points of view, in much the same way as in a court of law. By this means Parliament decides whether or not special laws shall be made for effecting such objects, for example, as the transfer of a large area of territory on the outskirts of a great town out of the control and government of the local authority of a rural area, of which it has previously formed part, and into the control and government of the local authority managing the town. Matters of this sort, involving, as they do, alterations in the burden of local taxation, displacement of local officials, the stimulation or suppression of local feelings of ambition, patriotism, pride, or rivalry, sometimes cause contention almost as strenuous and acrimo-

nious as that which, between nations, is the precursor of war.

Other examples which may be mentioned of the type of matter thus dealt with by local and personal legislation in England are the granting of a privilege for one local community to use the territory of another local community for some burdensome or unwelcome purpose ; the determination of the respective privileges and spheres to be allotted to rival trading interests, such as competing railway companies ; the creation of some new and powerful corporate body for carrying out special public purposes, such as a body of conservators for controlling the navigation of a river.

Many of the disputes which provide the cause or occasion for war between nations are analogous, though it may be on a wider plane, to matters which thus are settled, under the English parliamentary system, by local and personal legislation. Let us consider for a moment an international question which, under present conditions, would seldom be settled without resort to war—a desire or claim by one State to annex territory under the sovereignty of another. Such a desire or claim may be eminently reasonable, or outrageously unjust, or may occupy some intermediate position between those two extremes. The population of one State may have spread over its boundaries into unpeopled territory of its neighbour ; history and racial connections may afford special reasons for linking part of a State with the people across its borders ; geographical or administrative considerations may, in the opinion of a State, render just and convenient its absorption of some neighbouring territories ; for all or

any of these reasons there may be a plausible case to be brought forward in favour of a claim for annexation of territory. On the other hand, the people of one State, from motives of greed, may covet the lands of an adjoining State; or from some indirect or ulterior motive may seek, without justification, to secure a foothold outside their own boundaries. What harm would be done by trusting such a matter to the decision of a great International Parliament, which would be able, with the aid of an impartial committee, appointed from among its members, to sift all the details involved and examine into the points of view of the people principally affected?

How much more security there would be for obtaining a decision based on reason and justice, and calculated to produce a happy and settled result, if such a procedure were adopted, than if the States concerned let loose upon each other the horrors of war!

Some questions arising between States would be essentially of a judicial nature, such, for example, as differences as to the interpretation of the codes of international law or of inter-State treaties or conventions; as to the existence or non-existence of particular facts affecting the relations between States; or as to the rights resulting from such facts under international law. No doubt, for the decision of such questions as these, a small judicial tribunal would be more appropriate than a large representative assembly; but the International Council would be able to constitute, from among its own members, a judicial committee, and depute to this committee, if necessary without any power of revision by the

full Council itself, the power and duty of hearing and deciding judicial questions. The House of Lords affords some sort of parallel for such procedure. That House, although mainly a legislative assembly, acts also as the supreme tribunal of appeal from the ordinary courts of law. When, however, it sits in this appellate capacity only certain Peers are summoned to attend, being those who have held high judicial office, together with the Lord Chancellor, and certain Lords of Appeal in Ordinary, for whose appointment and remuneration provision was made by the Appellate Jurisdiction Act, 1876.

The International Council could, if it thought best, remove the judicial function wholly or partially from itself by the appointment of a permanent International Court of paid Judges, whose office and proceedings would be regulated by the code of international law.

For the purpose of seeing that due effect is given to the decisions of the International Council, something in the nature of an international executive would doubtless be necessary. This could be provided by means of a committee of the Council with the assistance of such official staff as the work of the Council might demand. The nucleus of an official staff already exists in the permanent international bureau established at The Hague under the provisions of The Hague Conventions.

I think some machinery ought to be provided for enabling alterations to be made in the original constitution and powers of the International Council, so as to avoid the risk of circumstances arising in which some alteration would be strongly called

for, to which the component States would not all assent. It would, of course, be possible to have the constitution and powers of the Council incorporated in the code of international law, and thus made subject to alteration by a majority of the Council, like any other part of the code. Probably, however, it would be prudent to surround such alteration with more stringent safeguards, and I suggest that provision might be made for entrusting the power of alteration to a special congress, to which each of the component States might be entitled to send twice as many representatives as it sends to the International Council. Whether this special congress should act by a bare majority, or whether it should be precluded from acting except by a majority of, say, two-thirds or three-fourths of its number, would be an important detail for consideration.

The expenditure of the International Council would, of course, have to be shared among the component States, and presumably population would have to be taken as the basis of apportionment.

The International Council would, as I have already pointed out, deal with the relations between States, and between the subjects of one State and the Government or subjects of another. It would not exercise any jurisdiction over the purely domestic and internal affairs, or the form of government, of any State. It might, however, sometimes have to perform the difficult and delicate task of deciding whether to recognise as a new and separate State some area of the State territories that had revolted from its previous allegiance. This is a duty performed now by individual States,

not always with immediately harmonious results. It would seem a distinct gain for the power and duty of recognition to devolve upon an international authority, which would speak with a single, and decisive, voice.

Now, having dealt with the International Parliament, the next item in the international scheme to be dealt with is the law. I would propose that a complete written code of international law should be prepared and promulgated, and from time to time amended and added to, by the International Council, and that such code should have binding force between all States within the limits of the State territories. It would probably be convenient to have the code in three separate parts; first, a public code consisting of the general laws regulating the relations between one State and another; secondly, a private code consisting of the general laws regulating the relations between the subjects of one State and the Government or subjects of another State; and thirdly, a special code, consisting of special laws made to meet special circumstances of particular States or groups of States.

The public code should contain, as its most important enactment, the prohibition of all war and disturbance of international peace, and thus the international legislators would not need to worry their heads over the construction of a set of laws of land and naval warfare, a task to which The Hague Conferences have devoted most of their attention. A law which prohibits acts of violence has no need to give directions as to the manner in which acts of violence must be committed.

The International Council, consisting of representatives of most of the nations of the civilised world, and invested with the power and duty of making general laws to govern the international conduct of all its component nations, would doubtless proceed upon the basis of broad principles of justice. Thus the course of international legislation, and the growth of conceptions of international law, would no longer be impeded and harassed, as it has been heretofore, by the desire of Governments to make regulations calculated solely for the advantage of their own States, and the refusal of Governments to agree to regulations involving risk of prejudice to the selfish interests of their own communities.

Who can measure the extent of the boon which would be conferred on future generations by thus substituting, in place of the present haphazard, incomplete, and unauthoritative rules of so-called international law, a code of just and equal laws, imposed by a representative assembly, clearly recorded, readily accessible, and really binding on all the members of the community of nations!

And now we come to the last of the three divisions of the international scheme—the provision of means for the enforcement of the international laws, and the preservation of the World's Peace. This is, I think, the barrier against which pacifists most often pull up. One hears it said, in imitation of Burke, that it is impossible to draw an indictment against a whole nation. Some tell you that, while an international police force of overwhelming strength is wholly impracticable, without it you cannot force peace upon unwilling nations. Others tell you—to use the

words of a writer on international arbitration—that "some issues are too tremendous to be submitted to any but the dread ordeal of battle."

I think the problem is not really so difficult as at first sight it may appear. Once more let us see if we cannot learn something that may be useful on the international plane by considering what takes place on the narrower, but in some respects analogous, plane of national affairs.

As we are dealing with the beginnings of international institutions, it might seem logical to adopt some plan based on the earliest national models. The practice of outlawry, although we have now discarded it, was, according to Sir Henry Maine, probably the earliest form of penalty for disobedience to the decisions of national courts. If the analogy of outlawry were followed, a nation disobeying the international laws would be condemned to a position of isolation from all the other nations, so that none of them or their subjects should assist it or its subjects by the supply of food or other commodities, the performance of any services, or the giving or continuing of hospitality. The offending nation would be, as far as the other nations could manage it, starved and ostracised. I fancy, however, such a remedy would be found too barbarous and unmerciful, and would, like outlawry, be eventually discarded. If so, its inauguration would seem to be the making of a false start, and we should do better, in international affairs, to begin at a more advanced point, and seek our guidance from national institutions of a modern, instead of a primitive, type.

What are the means by which in England to-day

the State enforces the observance of its laws between individual men or groups of men?

Four such means require mention. The first is the imposition of a money payment, by way of fine or compensation, obtained in case of need by a forcible seizure of property. The second means is the application of physical force to prevent some threatened breach of the law, or to remove the consequences of some breach committed, or to compel performance of some legal duty. The third means is the employment of some authority or person to perform a legal duty in the place, and at the expense, of an authority or person by whom its performance has been neglected. The fourth means is the infliction of physical punishment, which may be either disciplinary or exemplary in its aim, the form of punishment being usually detention in prison, with its resulting inconvenience, but sometimes the infliction of pain by flogging, and occasionally the forcible termination of the offender's life.

The last mentioned of these means is obviously the most drastic, and it certainly does not seem easy to imagine how the punishment of death, or anything resembling it, could be made applicable to a nation. This is, however, a form of punishment which a great and increasing number of people regard as unsuitable for use even by a State against its own subjects. It is to be noted also, in relation to the heavy punishments of death and flogging, that there are grounds for thinking that observance of law by nations may be secured by a sanction less drastic than is necessary in the case of an individual. Experience teaches us that where nations have in the past agreed to submit

disputes to arbitration, the losers, however much dissatisfied with the awards obtained, have hardly ever shown any disposition to resist performance of those awards. Also the fact that at present there is no regular system of punishments for breaches of international law would cause the imposition of even a moderate form of punishment to be regarded as relatively serious and severe.

From this point of view it would seem probable that the pecuniary payment, which in national affairs we regard as the least severe type of punishment, is the best example to follow in framing means of punishment to be adopted as a general rule for breaches of international law. There should, however, be provided in reserve a means of putting effective pressure upon a State in the possible event of its refusing compliance with an order for payment of fine or compensation. Perhaps also cases might occur of breach of international law so serious that a money payment would not afford adequate punishment. Machinery for putting a State to grave inconvenience by some exercise of physical force would, therefore, seem to be required, at any rate as a reserve capable of being brought forward in cases of emergency. The natural inference is that the International Council must be able somehow or other to summon to its aid a military force and a naval force, strong enough to overcome any resistance that an individual State could bring against it. Such forces would also be required in order to restrain threatened breaches of international law, to remove the consequences of such breaches, and to perform, or compel performance of, neglected State duties. The question is by

what method the forces should be provided. In considering this question it must be borne in mind that all or any of the States joining in the international scheme might become embroiled in quarrels with nations outside that scheme, and in such quarrels they might want to go to war with outside nations. They would also need means of defence against attack by any such outside nation. It must be borne in mind, too, that a State might require a military or naval force, or at any rate a strong police force, for dealing with insurrection or insubordination arising within its own territories and among its own subjects.

There seem to be three alternative methods of providing the necessary military and naval force. First, the whole force might be an international one, and placed under the absolute control of the International Council, the separate States being forbidden by the code of international law to maintain armies or navies; this would leave the individual State with no power of dealing with troubles within its own borders, unless it could have some right of calling upon the International Council to assist it with military or naval force, an arrangement probably very difficult to manipulate, and involving undue interference with the internal affairs of the component States. Secondly, each State might be allowed to have a military and naval force for its own purposes, not exceeding in strength a maximum prescribed under the code of international law, and the International Council might also be placed in command of a further and superior force permanently maintained under an organisation established at the international centre, and responsible only to the

International Council; this involves great expense and difficulty in keeping up a permanent force, necessarily large and powerful, but probably required only on rare occasions for anything more than trifling services. Thirdly, each State might be not only authorised, but required, to keep up a certain military and naval force prescribed and regulated by the code of international law, and to contribute all or any part of this force for service in an international army or navy, if and as required by the International Council. By this method the cost and difficulty of a permanent international establishment on a very extensive scale would be avoided. Presumably, however, the International Council would have to keep always at its disposal, at the international centre, a general staff, with military and naval departments, able, not only to give the Council necessary advice, but also to take up at any time the immediate control of the international army and navy, which the States might be required to bring together; and the principal officers, at any rate, would need to be permanently attached to the exclusive service of the International Council, and divorced, as far as possible, from their separate nationalities.

This last is probably the most feasible and satisfactory of the three methods for providing an international force, and it has some faint kind of analogy with the fyrd, or national militia, which existed from early times in England, and was revived by Henry II under the Assize of Arms, and further developed by Edward I under the Statute of Winchester. Under the fyrd each locality could be required by the King to contribute its quota to a national force, for the defence

of the kingdom and the preservation of internal peace.

This plan, then, of a force to be contributed by the component States, when called upon, is the one that I should recommend. I should propose, not merely to empower the International Council to requisition the contribution of the international forces for the purpose of enforcing its decisions upon the component States, and compelling obedience to international law within the limits of the State territories, but also to empower and require the Council by means of the international forces to defend the State territories against attack by invaders from outside.

While I have indicated that the international force might be used for putting physical pressure upon a State, to enforce payment of fine or compensation at the order of an international authority, it is to be observed that other machinery might be evolved which would minimise the need for resort to force. The States comprised in the international scheme might be required to keep deposited with, or under the control of, the International Council sums of money, proportioned in some way to their relative populations or financial resources, which could be made available to answer international obligations; and an international bank might be organised, which would facilitate the giving of security by States to the International Council for the performance of their obligations, and the enforcement of payments between one State and another (as well as probably assisting in the creation of an international currency, and discharging other useful international functions).

If the machinery for applying physical pressure were organised and kept available, the occasions for its actual use would probably be of the rarest. It is not to be anticipated that one State, or even two or three States, out of, perhaps, forty or fifty acknowledging the authority of the International Council, would readily offer any serious resistance to the declared will of the whole body.

I should propose that the States should be left free to maintain, if they should think fit, armed forces in excess of those which they could be called upon to contribute to the International Council. Confidence in the successful working of the international scheme would take time to ripen, and the reservation of the right to remain armed to any extent desired would bridge over the interval, and give the States an extra feeling of security, which might be desirable until they became accustomed to their new international relationship. It would also give them an additional means of defence against attack from outside the limits of the State territories, over and beyond the obligation of the International Council to afford such defence.

I should have little doubt, however, that the States would soon realise that excess forces were a useless expense, and would discontinue them of their own accord. The contributed forces would thus remain the sole means of international compulsion, and, as they would be controlled by a single international authority, and the proportions of contribution would be settled by international law, there would no longer be any need for the nations to worry about that old puzzle "the balance of power."

And thus the outline is completed of a plan

for supplying what I have suggested are the three essential preliminaries to the prevention of war: the international parliament, the binding code of law, and the administrative machinery for its enforcement. The realisation of the plan would give us the spectacle of a world in permanent alliance, in place of a world often at war, and always armed for hostilities.

HAMMERING OUT THE DETAILS

INTRODUCTORY.

IN the autumn of 1914 I wrote a short book, which was published early in 1915 under the title *The World in Alliance,* outlining a plan for organisation of international relations with a view to the prevention of future wars.

The plan was founded upon a broad consideration of the development of national institutions securing peace and order, and of past efforts in the direction of international co-operation. It proposed the creation of a permanent International Council, authorised to promulgate a code of general international laws and to make special laws for dealing with special circumstances affecting particular States, and invested with wide powers for settling differences, adjusting relations, and altering boundaries between the States joining in the plan. It provided for the constitution of a judicial committee or a body of paid judges to deal with international disputes of a justiciable character. It proposed to permit the International Council to exercise the power, if necessary, of

summoning contributory forces from the component States for enforcing its decisions, compelling obedience to international law, and defending the component States against attack.

Subsequent events have had an important bearing upon the matters with which that book dealt.

Lessons of the War.

Experience of the world-war has served to emphasise the horrors and brutality of war as an institution, and to deepen conviction that the close of the war will find the great bulk of intelligent people throughout the world ready to welcome and join in a forward move towards the substitution of an appeal to reason and justice in place of an appeal to force as the arbiter of the destinies of States.

The solidity and permanence of an international organisation will doubtless be secured best by its development in stages. It would be undesirable that the first stage should go so far that its formidable appearance would deter any large number of States from joining, or its operation would be felt unbearably burdensome or limiting by States accustomed to the enjoyment, in theory at any rate, of a large measure of independence in their international conduct. It would, however, be equally undesirable that the unique opportunity for progress the end of the war will afford should be wasted by making the path of advance shorter than that along which the bulk of civilised people are really prepared to travel.

Experience of the war has further proved both the willingness and the ability of a great number of the nations of the world to co-operate in resisting an aggressive disturbance of international peace, even on the largest scale, by a nation refusing to submit to methods of arbitration or conciliation. Much intellectual acumen has been applied to the unravelling of historical tendencies and underlying motives that have contributed to the development of the state of circumstances in which the war arose, but the immediate reason for the outbreak of the war lies in a nutshell; it is that Germany and Austria together asserted a right on the part of Austria to force her will on Serbia by violent methods, while Serbia, and other Powers intervening for her protection, insisted that matters in issue between Austria and Serbia should be settled by peaceful methods such as arbitration by a tribunal constituted under The Hague Convention, or conciliation through the medium of a Conference of some neutral States. The campaign of the Central Empires, resting thus upon the assertion of a right of violence, has been carried on in the most violent manner, and this policy of violence has raised up against itself a defensive combination which has gradually grown to such proportions, and woven for itself so close a web of co-operation and mutual assistance, that it may almost be described as a World Alliance and its armies and navies as an International Police.

Never before has there been such a revelation of the advantages and possibilities of international co-operation; never before has it been so clearly indicated that the world is able and willing, by a joint effort, to generate and maintain such force as

is required to vindicate the authority of international justice and right against the challenge of individual nations, however powerful.

Objects of the War.

As the war has proceeded two objects have gradually crystallised out as the widest and most fundamental among the objects that ought to be attained as a result of the war. The first is commonly described as the destruction of Prussian militarism, and the second as the formation of a League of Nations.

As regards the former object there seem, broadly, three possible methods of attainment. The first is the complete disarmament of the Central Empires and the effectual removal of their power to re-arm—obviously a matter of supreme difficulty, if not impossibility. The second is an effectual change in the attitude of the Central Empires towards war; the surrender of the hectoring military spirit with its talk of "shining armour" and "mailed fist," and what Viscount Grey has aptly described as "the constant rattling of the sword in the scabbard," and the effectual acceptance by the people of the Central Empires of the maintenance of international peace, order, and justice as the purpose of their armed force. The third is the sterilising of the armed force of the Central Empires for aggressive purposes by the organisation of an international force adequate to control it and keep it in check.

The second method is obviously the most satisfactory if it can be securely attained. Different people will interpret differently the signs of change

in the German attitude during the war. To me it seems far from impossible that the war may result in the acceptance by the people of the Central Empires, as well as by the Allies, of the proposition that international difficulties shall be adjusted in future on the basis of reason and impartial decision and the dictates of a common will and that national forces shall not be used for purposes repugnant to the common international will. If, however, it should prove that the war's lesson of failure and suffering has not effected the necessary change in the outlook of the German people, the third method is the one that must be applied; or in other words, the States ranged against the Central Empires in the war, having jointly generated a sufficient force to defeat those Empires in their present aggression, will need permanently to maintain, either alone or in conjunction with other States, neutral in the war, such forces as will enable them together to meet any future aggressive attack by the Central Empires. In either case a League of Nations would be required; in the former case the Central Empires would be members; in the latter case they would stand outside until such time as they might recant their militant heresy and agree to come into a peaceful union.

THREE SCHEMES FOR A LEAGUE OF NATIONS.

Various schemes have been published in this and other countries outlining the basis upon which a League of Nations might be formed after the war, and societies have been founded for the purpose of advocating some of these schemes.

Three schemes that have attracted considerable notice are those put forward by the "League of Nations Society" in England, the "League to Enforce Peace" (American Branch), in the United States of America, and the "Central Organisation for a Durable Peace," a body formed at an international meeting at The Hague as a result of steps taken by the Dutch "Anti-Oorlog Raad" and the "Association suisse pour l'Étude des Bases d'un Traité de Paix durable."

The "basis" adopted by the "League of Nations Society" is as follows :—

1. That a treaty shall be made as soon as possible whereby as many States as are willing shall form a League binding themselves to use peaceful methods for dealing with all disputes arising among them.

2. That such methods shall be as follows :—

(*a*) All disputes arising out of questions of international law or the interpretation of treaties shall be referred to The Hague Court of Arbitration, or some other Judicial Tribunal, whose decisions shall be final, and shall be carried into effect by the parties concerned.

(*b*) All other disputes shall be referred to and investigated and reported upon by a Council of Inquiry and Conciliation, the Council to be representative of the States which form the League.

3. That the States which are members of the League shall unite in any action necessary for ensuring that every member shall abide by the terms of the treaty; and in particular shall jointly use forthwith both their economic and military forces against any one of their number that goes to war, or commits acts of hostility against another, before any question arising shall be submitted as provided in the foregoing Articles.

4. That the States which are members of the League shall make provision for mutual defence, diplomatic, economic, and military, in the event of any of them being attacked by

a State, not a member of the League, which refuses to submit the case to an appropriate Tribunal or Council.

5. That conferences between the members of the League shall be held from time to time to consider international matters of a general character, and to formulate and codify rules of international law, which, unless some member shall signify its dissent within a stated period, shall thereafter govern in the decisions of the Judicial Tribunal mentioned in Article 2 (*a*).

6. That any civilised State desiring to join the League shall be admitted to membership.

The proposals of the "League to Enforce Peace" are as follows :—

We believe it to be desirable for the United States to join a League of Nations binding the signatories to the following :—

First : All justiciable questions arising between the signatory Powers, not settled by negotiation, shall, subject to the limitations of treaties, be submitted to a Judicial Tribunal for hearing and judgment, both upon the merits and upon any issue as to its jurisdiction of the question.

Second : All other questions arising between the signatories, and not settled by negotiation, shall be submitted to a Council of Conciliation for hearing, consideration, and recommendation.

Third : The signatory Powers shall jointly use forthwith both their economic and military forces against any one of their number that goes to war, or commits acts of hostility against another of the signatories before any question arising shall be submitted as provided in the foregoing.

(Note.—The following interpretation of Article 3 has been authorised by the Executive Committee: "The signatory Powers shall jointly employ diplomatic and economic pressure against any of their number that threatens war against a fellow signatory without having first submitted its dispute for international inquiry, conciliation, arbitration, or judicial hearing, and awaited a conclusion, or without having in good faith offered so

to submit it. They shall follow this forthwith by the joint use of their military forces against that nation if it actually goes to war, or commits acts of hostility against another of the signatories before any question arising shall be dealt with as provided in the foregoing.")

Fourth : Conferences between the signatory Powers shall be held from time to time to formulate and codify rules of international law, which, unless some signatory shall signify its dissent within a stated period, shall thereafter govern in the decisions of the Judicial Tribunal mentioned in Article 1.

The following is the "Minimum Programme" of the "Central Organisation for a Durable Peace" :—

1. No territory shall be annexed or transferred contrary to the interests and wishes of the population, whose consent must be obtained, if possible, by plebiscite or otherwise. The States shall guarantee to the nationalities included in their territory civil equality, religious liberty, and the free use of their language.

2. The States shall agree to establish free trade in their colonies, protectorates, and spheres of influence, or at least equality of treatment for all nations.

3. The work of The Hague Conference with a view to the peaceful organisation of the Society of Nations shall be developed.

The Hague Conference shall be given a permanent organisation and shall meet at frequent intervals.

The States shall agree to submit all their disputes to peaceful settlement. For this purpose there shall be created in addition to the existent Hague Court of Arbitration :

(*a*) A permanent Court of International Justice.

(*b*) A permanent International Council of Investigation and Conciliation.

The States shall bind themselves to take concerted action, diplomatic, economic, or military, in case any State should resort to military measures instead of submitting the dispute to judicial decision or the mediation of the Council of Investigation and Conciliation.

4. The States shall agree to reduce their armaments. In order to facilitate the reduction of naval armaments, the right of capture shall be abolished and the freedom of the seas assured.

5. Foreign policy shall be submitted to effective Parliamentary control.

Secret treaties shall be null and void.

Comparison of the Three Schemes.

It will be noticed that between the third paragraph of this "Minimum Programme" the "basis" of the League of Nations Society and the "proposals" of the League to Enforce Peace there is a considerable general similarity, although on particular points they present noticeable differences, and each of them leaves untouched a good many important details which would need to be provided for under an actual treaty constituting a League of Nations.

Each plan proposes a permanent legislative conference, a permanent Court of Justice for dealing with justiciable disputes (that is to say, disputes suitable for judicial decision, such as disputes depending on issues of fact or on the application of laws or the interpretation of treaties), and a permanent Council of Conciliation for dealing with non-justiciable disputes. Each lays an obligation on all the leagued nations to take concerted action to compel the submission of disputes arising among them to the Court or Council before resorting to war. Each leaves a member-State free to go to war upon a non-justiciable dispute if the recommendation of the Council of Conciliation is not accepted, and presumably leaves

the other members, who are not parties to the dispute, free to go to the assistance of either belligerent if war in the end takes place without infringing the terms of the treaty.

The chief differences are that the League of Nations Society's basis goes beyond the other two in providing (*a*) for the enforcement of the judgments of the Court in the case of justiciable disputes; (*b*) for mutual protection against attack by a State outside the League.

It is also noticeable that the third paragraph of the Minimum Programme contemplates that the League shall be a development of The Hague Conference, and the basis of the League of Nations Society stipulates that it shall be open to any civilised State to join the League, whereas the proposals of the League to Enforce Peace give no express indication as to the suggested composition of the League.

Essentials of a League of Nations.

That the League should comprise a large number of nations showing a wide variety in their type and situation appears to me obviously desirable. Its success in preventing wars will depend largely on the confidence it inspires and the authority it acquires throughout the world and the width and depth of the knowledge of world-conditions it brings to bear upon all matters of international concern which come before it as possible sources of war. This confidence, authority and knowledge are not likely to be easily obtainable unless the work of the League is carried on in close co-

operation by a large number of nations, both great and small, drawn from widely various quarters of the world and differing widely in circumstances and experience.

The co-operation of many nations is further desirable in order that the League may have at its command in the last resort an irresistible force with which to meet attack on the part of any State or States refusing to comply with the League's peaceful procedure. The greater the body of member-States uniting to guarantee performance of the obligations of membership, the smaller will be the risk that any State or States will ever seek to challenge the combined authority of the League, and the smaller will be the need or temptation for any individual State to maintain any armed force in excess of the fair quota which the League will look to it to provide for purposes of international police.

An absence of exclusiveness in the membership of the League, as well as mere numerical strength, appears important to its success. The inclusion of any States that are regarded as likely disturbers of the peace is particularly desirable, for they will be more easily controlled if they are inside, than if they are outside, the League. If the League is to prevent wars, it must not be the representative merely of a limited group of States, having interests possibly conflicting with those of other groups. It must be a body promoting the general interests and peace of the world, and consecrated to the service of general principles of justice and equity under which the needs and interests of all nations are duly recognised without preference or priority. It is the common acceptance of this moral aim

that will provide the necessary cohesive force to keep the nations together in the practical working of the League. The suitable spirit to inspire the machinery and the suitable machinery to embody the spirit are complementary essentials in the composition of a League of Nations.

There will probably be common agreement as to several general conditions that should be observed in the design of the League's machinery. It should be simple machinery, easy to understand and work. It should be able to grapple with circumstances such as those which preceded the present war, but at the same time its efficacy should not be limited to situations of that kind, and it should be efficient for grappling with all sorts of new situations from which wars might arise in future. It should make international relations conform to the orderly observance of fixed laws, and yet it should allow for changing conditions, and should not stereotype the *status quo* or clothe laws with the character of immutability. It should be fully equipped for efficient action from the start, and yet should not be so extensive and pervasive in its operations that its interference would excite resentment instead of welcome. It should promote internationalism without unduly suppressing national spirit and liberty.

While it is comparatively easy thus to describe certain general lines to which the design of the League of Nations should conform, it is a matter of much greater difficulty to determine on what particular pattern its various parts should be constructed. Here there is great room for differences of opinion. Probably there is no subject more deserving of public consideration and discussion

at the present time. Of all after-war problems of reconstruction, those relating to international relations are the most fundamental, because, without security against hostile attack from outside, the perfecting of internal arrangements within a State is liable to become a futility.

Importance of the Conference.

In current discussions and criticisms upon these schemes it appears to me that insufficient importance is commonly attached to the Legislative Conference which each scheme proposes. In removing the causes of great wars and in paving the way for freer, healthier, more secure and more cordial relations between the nations of the world, the Legislative Conference is probably destined ultimately to play a more important part than even the International Court of Justice or the Council of Conciliation.

Let us assume that the eight Great Powers, together with a considerable number of other Powers, located in both the Old World and the New, agree to join together in forming the League, and that they send, as doubtless they would do, their most able and trusted statesmen to represent them in its Legislative Conference. Then assume that these statesmen settle down at The Hague or some other centre, in permanent or frequent session, to discharge their high function of considering international matters of a general character and formulating and recommending for acceptance by all the leagued nations a series of international laws. What would be the result?

They would certainly not limit their labours to the mere fixing and recording in concise form of the legal principles that have obtained currency in the past through the efforts of international jurists. Nor would they deal only, or indeed principally, with the laws of war, which have occupied a great part of the time of The Hague Conferences. No doubt their inclination would lead them, and, if it did not, the pressure of public opinion throughout the League would gradually compel them to deal with those great questions of international relationship which, if they are not adjusted on the basis of legal principle and reasonable, orderly, and intelligent regulation, are certain to form the seed of war: such questions, for example, as the use of through communications by road, railway, river, canal, and sea; facilities for trade in protectorates and spheres of influence; and facilities for, and barriers against, alien immigration, particularly as between races of different colour.

Prevention is proverbially better than cure. In the calm of peace the Conference of the League would watch the changing conditions of the world, discern the points at which there might be risk of friction arising between individual nations, and consider and recommend, after systematic inquiry, how these points could be safeguarded in advance by means of general laws appearing fair and equitable to the combined sense of the Conference.

It is also far from impossible that, if some great cause of friction arose between particular States, which had not been anticipated and provided against beforehand and which the Council of

Conciliation proved impotent to settle to the mutual satisfaction of the parties, the Conference might be appealed to successfully to deal with the matter by the recommendation of some general law which would incidentally remove the particular cause of dispute, and thus forestall an actually threatened war.

It may be objected that the several proposals contemplate that the international regulations propounded by the Conference would not become binding laws unless accepted by all the leagued States, and that States feeling their interests vitally prejudiced by proposed laws would refuse to ratify them, and thus would prevent their operation. This might be the case in matters where opinion within the Conference was divided somewhat equally. But assuming the League to comprise a considerable number of States, and assuming that the joint consideration and discussion of a matter by the Conference, with the broad outlook and wide experience which would there be brought into play, resulted in some approach towards unanimity as to the proper solution, it is probable that the force of public opinion among the peoples represented in the League would compel the minority to submit and run with the general current. If the resistance of small minorities proved, in practice, a considerable impediment to legislation, a movement would be sure to arise for incorporating in the constitution of the League some provision for making laws binding when passed by large majorities.

Probably there ought to be included, from the start, a provision allowing the Conference by some specified majority to repeal or amend a law; other-

wise there would be a risk that a large majority of the League would have to remain saddled with a law where, though they had originally accepted it in belief of its wisdom, they were satisfied by experience that it was unwise.

Possibly some safeguard ought also to be provided for alteration of the treaty constituting the League, if desired by a considerable majority. The power of alteration might be entrusted to a special congress as suggested in *The World in Alliance* (see p. 45).

So long as a member in the minority is free at any time to withdraw from the League it seems not unreasonable that some such protections as these should be given to the majority.

Enforcement of Obligations.

While underrating the importance of the Legislative Conference, current criticism appears to me at the same time to overrate the difficulties involved in the enforcement by the League of the rights and obligations of its members.

In most cases within an individual State the discharging of obligations and the yielding of obedience to governing authority are not secured by force at all or even by the threat of force, but by such influences as the power of habit or fashion and respect for public opinion. Where force comes into the matter at all it is not merely the force actually wielded by the governing authority that counts, but the force that it is known to be able to command or obtain in case of emergency. Again, it is not merely the total measure of the

available force that counts, but the proportion between that force and any force that is likely to be brought against it.

Assuming a League with numerous members, including all or the larger part of the Great Powers, and assuming also that the constitution and powers of the League are so framed that its acts and decisions are tolerably sure to be, in actual fact, just and equitable in their effect upon all the members, it is reasonable to expect that resistance to the action taken by the League on the agreed lines would be seldom, if ever, persisted in, and, even if it were pursued, would be overborne by an overwhelming rally of the great body of members to the League's support.

It must be remembered that physical force would not be the only force to which the League could resort. Economic force would also be available, and would probably in some cases be both easier to apply and more effective in its operation.

The determination of the particular form of force to be called into action and the organisation of the method of its application should not present any insuperable difficulty. If the problem of co-operative use of force can be successfully solved by the Allies in the present war under the novel conditions there prevailing, and against the enormous strength wielded by the Central Empires, it must be capable of much more easy solution by the nations permanently associated together in the contemplated League, with the express object of rendering the wills of the individual member-States subservient, within the agreed limits, to the common will of the League.

The greatest difficulty of securing peace and

order within an individual State lies not so much in the provision of the police force for carrying out the commands of the Governing Authority as in the provision of a Governing Authority with such constitution, equipment, and capacity as will meet the needs, and command the respect and confidence, of the governed; the provision of judges and legislators is a more complicated matter than the provision of policemen. In the same way the greatest difficulty in organising the League of Nations lies not so much in the provision of the necessary restraining force to protect the members from attack as in the wise constitution of the International Court, Council of Conciliation, and Conference, and the wise ordering of their functions and powers. Moreover, these bodies have to be created, and their normal functions have to be carried on from the start, whereas the necessity for the use of force will not arise until some indefinite later period, and in the meantime the Conference of the League will have had the opportunity of deliberating upon the subject and forming its own considered views.

Risk of Excessive Armament.

It is often suggested that the League may be at the risk of disruption through certain of its members secretly accumulating an immense armament and overwhelming, by sudden attack, the other members, who will have trusted to the League's protection and refrained from arming in such a way as to guarantee their own defence. There are several answers to this suggestion.

In the first place the League will be constantly and permanently occupied in co-operative work for the benefit of all its members and for the improvement of the relations between them, and it is reasonable to expect that this normal action will tend to remove or reduce international jealousy and ill-feeling, and to diminish the risk that any members should seek or desire to conspire against the safety of their neighbours.

In the next place it will be important for the League as a whole to make sure that each of its members keeps itself at all times duly equipped in such manner and to such extent as may be necessary in order to enable it, when called upon, to take its proportionate share in exercising pressure against any recalcitrant member. The League would therefore, no doubt, take steps to keep itself informed at frequent intervals of the extent and condition of the armament of each of its members. An excessive armament would thus become known throughout the League, and probably the resulting pressure of public opinion would be sufficient to prevent a dangerous excess. But if this should be an insufficient protection it might be made a part of the basis of the League that the armament of each member, while not falling below a minimum strength constituting the member's fair contribution to the general guarantee, should at the same time not rise above such maximum strength as the League might decide upon as a reasonable upward limit to impose. The fixing of such a maximum would, of course, require great care, since each State would have its own views as to the force it might need for preserving order within its own borders and for

protecting itself against risk of attack by some State outside the League. The difficulties involved in the imposition of a maximum would, however, be greatly reduced by the adoption of the plan of guarantee by the League against outside attack, as recommended in paragraph 4 of the League of Nations Society's basis.

The temptation to accumulate excessive forces would be diminished if the League as a whole shared the cost of maintenance of the minimum force required for each member. The cost would have to be apportioned among the members according to population, or whatever other basis proved fairest, and no doubt a similar basis of apportionment would be adopted for the general expenses of the League and for any expenses or losses incurred by the members, at the call of the League, in enforcing the obligations of other members.

The economy involved in the provision of means of defence against apprehended aggression by sharing in the guarantee of a co-operative force, instead of by building up and maintaining a separate national force adequate to cope with such apprehended aggression, should be one of the attractions attaching to membership of the League.

The third answer to the suggestion as to the risk of excessive armament by a single member against the League lies in the saying that there is safety in numbers. If, as is assumed, the League is to be one binding together the major part of the civilised world in a common determination to replace aggressive violence by methods of deliberation and reason, it is to be anticipated that

each member-State would feel the hopelessness of challenging the accepted policy of the civilised world by seeking to revert to the methods of barbarism.

The more closely the idea of the League of Nations is studied, the more desirable does it appear that the number of nations represented within it should be large—that it should, in fact, constitute substantially an alliance of the civilised world.

The League and The Hague Conference.

The problem of the relation of the League of Nations to The Hague Conference would be very much simplified if the nations subscribing to the idea of the League formed so large a proportion of those that have taken part in The Hague Conference as to enable the League to take the form of a development of that Conference, and thus to obviate the need for the continuance of The Hague Conference as a separate institution.

If the two institutions proceed side by side, there is a risk that the League of Nations may gradually formulate a great code of international law for observance by its members, while at the same time Hague Conventions may be made dealing with similar subject-matter by different regulations. Confusion and uncertainty might thus arise as to the legal rules that ought to be applied in determining mutual rights and obligations between nations of whom one or both might be party to both sets of legislation. The difficulty is not an insuperable one, for if the League of

Nations had to be formed of only a few nations, it would, of course, watch the development of The Hague Conventions, and could so limit the scope of its own law-making operations as to minimise the risk of clashing, and could accept principles of interpretation which would allow the Conventions of the larger Conference to prevail in case of inconsistency; just as it would presumably have to adopt principles of interpretation which would allow the provisions of the treaty constituting the League and of the League's accepted code of laws to prevail over inconsistent provisions of treaties between individual members of the League.

In several other respects advantage would flow from creating the League of Nations as a development of The Hague Conference, and thus securing identity between them.

It should tend to assist the numerical strength of the League of Nations. Among the forty-four Powers that were represented at The Hague Conference of 1907 many might feel repugnance to the idea of breaking away from an institution to which they already belonged, and in whose earlier development they had taken part, and they might thus by an almost automatic process become parties to the much closer bond of the League of Nations, whose obligations they might otherwise feel more difficulty in accepting.

It would also remove the difficulty which The Hague Conference experienced in establishing an International Judicial Court, for it would provide a body, viz. the Conference of the League of Nations, capable of electing the judges of that Court.

THE JUDICIAL COURT.

The Hague Conference of 1907 elaborated a scheme for such a Judicial Court, and prepared the draft of a convention for bringing the Court into existence, and regulating its powers and procedure, but acceptance of the convention depended upon an agreement being arrived at between the States represented at the Conference as to the constitution of the Court, and the method of selecting the judges. Although various plans were suggested and considered, no acceptable solution could be found for the problem as to how a comparatively small number of permanent judges should be appointed by a much larger number of sovereign States.

The method of appointing judges, although in a sense a matter of detail, has a very important bearing upon the ultimate status and authority to be acquired by the Court.

The powers of the Court would be extensive. Such functions as the determination whether a particular dispute is or is not justiciable, and whether or not the circumstances have arisen requiring the States of the League to put forcible pressure upon a member, would naturally devolve upon the Court, in addition to the actual decision of disputes on justiciable matters. It would probably also be necessary to entrust the Court with some power of granting interim injunctions to prevent risk of serious injury arising to any party pending the consideration of a case by either the Court or the Council of Conciliation.

It is clear that if the Court is to command that universal and unquestioning respect and obedience

from nations, great and small, which is essential for its success as an instrument of international peace and order, the individual judges composing it must be jurists of high character, impartial mind, and great knowledge, experience, and intellectual power, and they must be as far as possible detached from the position of adherents or representatives of any particular States and recognised as the impartial servants of the whole League. To secure this result it appears to me that the best plan is for the appointment of all the judges to rest in the hands of a single body representing all the States concerned, provided that a body can be found so constituted and of such eminence that the appointments it makes are sure to be wise in themselves, and to enjoy the confidence of the peoples of all the States. The Legislative Conference of the League of Nations appears to be a body fitly answering this description.

Voting Powers in the Conference.

Whether the League of Nations is evolved from The Hague Conference or constructed as a new institution by a group of nations, I think a departure would be desirable from The Hague basis of equality in the voting power of the constituent States. The laws formulated by the Conference of the League and recommended by it to the Constituent States for adoption are likely to be in themselves better balanced and better adjusted to the relative needs and interests of the various populations affected if the larger populations have the larger influence in the shaping of them. The due

proportioning of influence requires not merely a larger number of votes to be cast in a division, but a larger number of representatives to share in the deliberations.

Contracting Out.

A departure seems also desirable from the practice pursued in relation to The Hague Conventions for individual States to make reservations excluding the applicability to themselves of particular enactments.

The carrying on of relations between a group of States on the basis of a code of laws which applies various different sets of regulations to different combinations of States seems well calculated to lead to uncertainty and confusion. It is submitted that, unless and until some provision is adopted for binding small minorities, only such laws should be incorporated into the code of the League of Nations as all the Constituent States can be induced to accept. This, of course, would not prevent particular groups of members from entering into separate treaties which would apply to relations between themselves alone if not inconsistent with the League's general code.

General Scheme of the Conference.

The Conference of the League is thus conceived as a permanent body, upon which the Constituent States would be represented by their greatest statesmen, and to which each State would be entitled

to send at least one representative, and the larger States would be entitled to send such further number of representatives as would, upon some fair and workable basis, give due weight to different aggregations of population; and it is conceived that to the body thus constituted and exercising the high function of formulating a code of international law, the Constituent States would entrust the power of selecting the judges of the permanent Court to administer that law.

The Council of Conciliation.

The scheme of the League further involves the appointment of a Council of Conciliation for mediating in disputes of a non-justiciable kind; that is to say, disputes which do not depend merely upon issues of fact or the application of laws or interpretation of treaties, and are therefore unsuited for determination by a Judicial Court, but demand treatment based on broad considerations of equity, policy, and expediency.

There are several different forms which this Council might take. For example, it might be composed of representatives appointed directly by the Constituent States, or it might be a small body of impartial conciliators appointed by some other body within the League. It might also be either a permanent body or a changing body called into existence for each separate dispute. Appointment of a representative by each State would have this advantage, that it would lend the weight of the whole League to recommendations put forward by the full Council. It would have the disad-

vantage that the members might look too much to the interest of the States appointing them, and not regard themselves sufficiently as occupying a detached international position. Considering the nature of the functions to be discharged it may be that the Council would have the best chance of succeeding in its work if it were a small permanent body of impartial persons, divorced as far as possible from the character of representatives or adherents of particular States, and selected on the basis of their fitness, as a body, for the difficult and delicate work of conciliation. If this view as to the desirable type of Council be correct, it is suggested that the Conference of the League might appropriately be entrusted with the duty of selecting the members of the Council of Conciliation, as well as the judges of the International Court. Appointment by the representative Conference would to a certain extent give the Council the benefit of the weight derived from representation of all the States, while at the same time enabling it to be a small and detached body serving impartially the whole League.

The Executive Committee.

For conducting the general business of the League, giving effect to the directions of the Conference and Court and Council, watching the course of current events, bringing appropriate matters for legislation before the Conference, moving the Court, in case of need, on behalf of the League, and performing miscellaneous functions such as the filing of treaties and other documents, and the apportionment of expenses among the

members of the League, some kind of Executive Committee or Watching Committee would appear necessary, and it is submitted that this would appropriately be a Committee appointed by, and responsible to, the Conference of the League. Upon this Executive Committee, under the general direction of the Conference, a variety of ministerial functions, connected with matters of international importance, might possibly devolve in course of time; functions, for example, in connection with post office, coinage, copyrights, etc., etc.

The League and the Constituent States.

The representative Conference would thus seem naturally to fall into the position of the responsible head of the League. The appointment of suitable representatives upon it would be the great care and office of the Constituent States. The States would look to these representatives to ensure the smooth and satisfactory working of the League. Under the headship of the Conference, thus representing from time to time the combined opinion and desires of the Constituent States, the institution of the League would carry on its work in a detached atmosphere and on a permanent basis, and would probably acquire, in a growing degree, a genuinely international sense and character, to the great advantage of the peace of the world.

Aggressive War Made Improbable.

As above sketched out the League of Nations would not wholly exclude the admissibility of wars

of aggression, and would not have the completeness of the "solution" set forth in Section 4 of *The World in Alliance*. It would, however, go a long way in the direction of that solution, and would mark a great advance upon the ideas of international relationship prevalent before the present war.

If such a League had existed in July, 1914, and included all the Great Powers of Europe, and the United States and Japan as well, it seems extremely unlikely that the present war would ever have been entered upon. Even as late as the day on which Germany delivered her ultimatum to Russia, Viscount Grey wrote, in a letter to the British Ambassador in Berlin, "I still believe that it might be possible to secure peace if only a little respite in time can be gained before any Great Power begins war." It must be remembered also that in the course of the negotiations immediately preceding Germany's ultimatum it was contended by Russia and France that if Great Britain would come forward with a definite pledge to join them in armed intervention on behalf of Serbia there would be no war.

The Problem for Statesmen.

The establishment of the League of Nations involves agreement by all the nations concerned to a common basis for settlement of all details. Negotiation of the basis will doubtless necessitate much give-and-take between the various Governments. It would be unwise, therefore, that the people of any one nation, or any section of people,

or even any individual, should become too rigidly attached to any particular basis. An open mind on all aspects of the matter is especially desirable. Nevertheless it is highly important that details should be considered, and that actual methods of working should be sketched out and practical difficulties anticipated. Such treatment of the subject is more likely to bring conviction to statesmen and men of business of the practicability and usefulness of the League than pious generalities and vague descriptions. It is well, therefore, to be hammering out the details now.

Negotiations between responsible statesmen might prove that a wide acceptance could only be secured for a very limited scheme for the commencement of the League. On the other hand, it might result in agreement upon the more complete type of scheme, enforcing peaceful solutions for all disputes, and forbidding aggressive war under all circumstances. There is this strong practical reason in favour of an entire prohibition of war, that it facilitates a larger measure of disarmament for all nations, with consequently greater reductions in military and naval budgets. It is arguable that the imposition of an obligation on the members of the League of Nations to use military force against a recalcitrant member at the call of the League would to a certain extent act as a barrier against disarmament, and that for this reason it might be more prudent to refrain from imposing that definite obligation unless and until the members were also placed under an obligation to accept the recommendations of the Council of Conciliation in non-justiciable disputes.

Clearly the great desideratum is the avoidance

of war, for while war reigns the still small voice of reason and justice cannot easily get a hearing. The efforts of the League ought rightly, therefore, to be aimed at the enforcement of peace, but the international authority that sets out to enforce peace ought to be in a position at the same time to guarantee the dispensation of justice and equity; otherwise its powers might become a tyranny, and its compulsory peace might prove a condition of simmering discontent. The real basis of the community of nations must be justice rather than coercion.

The League and the Present War.

The League is, of course, in the main, an after-the-war matter, and it might conceivably be established after the conclusion of the war without any provision for it, or even any reference to it, being made in the terms of peace. On the other hand, it is possible that the establishment of the League, or the arrangement of a special congress to establish it, might form one of the most important articles in the terms of peace. To those nations, like Great Britain, which have entered into the war for the vindication of international right, and with the unselfish motive of defending other States against unjust aggression, the formation of a League of Nations to prevent aggressive war and to enforce peaceful methods for the solution of disputes must appeal as evidencing the successful result of their war-effort. But even to those who entered upon the war from far other motives, and in whose aggressive attack the war

found its inception, the establishment of the League may appeal as an inducement to submit to terms of peace which otherwise might be unacceptable. When all the vast and complicated questions of territory, reparation, and restoration are considered in relation to the acceptance of definite conditions for terminating hostilities, any nation called upon in the name of justice to submit to a term which in its own mind it deems unjust may be the more reconciled to submission if it knows that at the same time a permanent international institution is to be created through which it may have a chance of establishing in the future a claim to readjustment and getting that claim enforced by international authority, without recourse to war.

It is to be hoped that the instrument creating the League of Nations, whether it be drawn up by the statesmen who define the terms of peace or be settled by a subsequent congress of nations, will not seek to lay down general principles for regulating the economic, commercial, political, or other action of the members. Such principles, even if they are in fact ripe for treatment under general laws, ought to be dealt with by the League itself, after long and careful consideration, rather than by the creators of the League, working under pressure at the peace settlement. Guarantees may, of course, be necessary under the terms of peace for the treatment of specific economic, commercial, or political matters in particular cases, but it would seem a mistake to overload the League of Nations by unnecessarily attaching to it general conditions, hastily formulated, which the League might subsequently come to look upon as an unfortunate heritage.

The duty of the statesmen will be to concentrate their efforts upon the essential task of creating machinery which shall as far as possible prevent the further occurrence of war and provide an effective substitute for it. While thus limiting the scope of their task, and avoiding unessential paths of controversy, they ought at the same time to discharge this task, fraught as it is with immense possibilities of benefit for humanity, with the most thoroughgoing regard for the practical needs of the situation, and without being deterred by the fears of theorists as to interference with national sovereignty or creation of a super-State.

The present generation has been called upon to pass through the unspeakable tragedy of seeing the greatest nations of the world locked together in a prolonged and wholesale effort of mutual destruction. One may be permitted to indulge the hope that the same generation will have the unspeakable joy of seeing the same nations co-operating together with equal determination in the effort to remove all obstacles to the foundation of a new basis of international relationship, under which their armed forces would be held mainly, if not wholly, as instruments of an international will for peace, order, and justice.

A LEAGUE OF NATIONS WITH LARGE POWERS

MANY people in different countries are thinking how, after the present war is over, the recurrence of such a calamity can be avoided ; how we may best promote the extension and observance of International Law and a fuller recognition of treaties ; how we can secure that differences or disputes between nations shall be settled on principles of justice and friendship, by an appeal to reason, instead of by an appeal to force.

It is deeply rooted in English thought that this war is waged against the ideas and the methods of militarism, and must somehow be made to end war. "Never again" is a motto on many lips and in more hearts.

The firm, steadfast, and courageous prosecution of the war to an unquestionable victory by Britain and her Allies will stand as a vindication of public right and a condemnation of aggression. But this by itself cannot be expected to act as an insurance against future wars.

The war will have exacted an unprecedented toll of life and treasure, and left for half the world a legacy of heavy burdens and sad memories. But this alone cannot be relied upon as sufficient

warning to hold the nations back, in permanence, from strife. The burdens will be lightened by future effort, and the memories will fade.

Wise arrangements in a treaty of peace, removing old sores and drawing just boundaries, may reduce, for a time, the temptations to belligerency. But even this will not for long be a security against war. Circumstances will change, new conditions will arise, and new grounds for conflict are sure to develop.

Something more is necessary if war is for the future to be prevented or made of rare occurrence. What that something is it is imperative to consider.

Some people tell us that the great need is for an extension of democratic government and a greater popular control over foreign policy in European countries. Reform in this direction is doubtless coming, but how far its effect will go is problematical. History does not prove any inability in democracies to make war.

Some people say that what is needed is nothing more nor less than a change of heart in the peoples of the world ; that the growth of peaceful desire and of mutual understanding and goodwill between nations is the only prophylactic against war, and, when you have attained it, you need nothing further.

No doubt the spirit of man is the mainspring of his action, and without some spiritual aid the best designed machinery for guarding peace will fail to work. But I think it is equally true to say that spiritual feeling, if its operation is to be effective and lasting, needs to be embodied in some suitable organic form, and that the creation of

the suitable organic form is a great help to the development of the spiritual feeling.

In my judgment there are two objects upon which effort should principally be concentrated in order to displace the practice of going to war. The first is the substitution of justice in place of self-interest as the guiding aim and acknowledged ideal of nations in their corporate relations. The second is the creation of some suitable organisation through which, by an appeal to justice instead of to force, actual quarrels between nations may be settled and problems resulting from international relationships and the changing circumstances of nations may be resolved.

It is with this second object, the creation of an international organisation, that I propose in this paper to deal.

The building of the suitable edifice will need the conscious and laborious efforts of many workers co-operating in the pursuit of a common plan. The problems it involves are so important and so difficult that we cannot afford to leave them unstudied and undiscussed until the time for definite and conclusive action arrives; nor can we afford to let opinion develop and ripen in other countries on a subject in which we are so vitally concerned without preparing ourselves to join in the solution of the common issue.

However closely preoccupied we may be with day to day duties during the war, surely we can all find some leisure moments in which to cast our thoughts forward and study the path we must tread when the war is over. Just as we have perforce, as a nation, to find the time and the means for safeguarding the interests of the future

by looking after such matters as infant welfare, agricultural development, and the stability of national finance, so we must duly arm and equip ourselves, as far as we can, for dealing with this supremely important question of international organisation, which will call for immediate action at the end of the war.

Such thought for the future will not be without its beneficial result upon the circumstances of to-day. The sorrows and the hardships of the war will be made more endurable if we can see clearly through them the outline of a better world. Amid all the loss and sacrifice and wastage of the war it will be easier to preserve an unfailing faith and courage if we realise, not as a mere vague aspiration, but as a practical and workable plan, the better international relationship to which the war can and ought to be made to lead.

It may well be that when the fighting is over and the terms of peace come to be defined in treaty form, the task of defining these terms may be rendered easier if there already exists a strong, well-founded, and widely held conviction that international arrangements can and will be made which will give security for the peaceable adjustment of competing claims and conflicting interests between different nations.

Various plans for the future organisation of international arrangements have already been proposed. Others, no doubt, will follow. A reasonable multiplicity is beneficial, for out of varied sets of ideas thrown into the common store we may expect the best set in the end to emerge.

In a little book called *The World in Alliance*,

published early in 1915, I outlined a plan which seemed to me to be pointed to by the analogy of the development of national institutions, and by such development as had already taken place in the international field. It proposed the creation of a permanent International Council authorised to promulgate a code of general International Law, and to make special laws for dealing with special circumstances affecting particular States, and invested with wide powers for settling differences, adjusting relations, and altering boundaries between States. It provided for the constitution of a judicial committee or a body of paid judges to deal with international disputes of a judiciable character. It proposed to permit the International Council to exercise powers (including, if necessary, the summoning of contributory forces from the component States) for enforcing its decisions, compelling obedience to International Law, and defending the component States against attack.

Such a plan is, of course, ambitious in character, as any plan must be that is effectually and permanently to prevent war. That the prevention of war, as we now understand it, between civilised nations, is an aim ultimately attainable, and not a mere dream, I have little doubt, and the practical question at the moment is by what path its attainment shall be sought and what progress along that path can be made at the end of the present war.

Considering the closeness of interconnection subsisting between the many countries of the world under modern conditions, and the almost limitless area within which circumstances may arise giving ground for friction between nations or groups of

nations, perhaps the most important point to keep in mind is that the international organisation to be formed should consist of the greatest possible number of civilised States.

Numerical strength is important in order to bring within the pacific influence and control of the combination the maximum number of possible disturbers of the world's peace and to prevent the formation of rival groups or leagues. It is also important in order to give such authority and backing to the united voice of the combination as will reduce to a minimum the chance that that united voice may need to summon force for procuring obedience. It is important again in order that the decisions of the combined body may be based on a sufficiently wide foundation, and not be overbalanced by one-sided views and sectional influences.

Another point of importance is that the organisation will be likely to command a readier welcome and support if it is evolved from, or modelled to some extent upon, existing institutions than if it takes a wholly novel and unprecedented character. So strong is the tendency of human nature to lean upon precedent, example, and experience, that it is argued with strength in some quarters that the most hopeful basis upon which to form a World League of Peace is to start with a League of a few nations and trust that its success will induce a gradual expansion. In my judgment, however, the attractions of such a course are outweighed by the risk that a permanent League of a few nations would become stereotyped and lead to the formation of rival groups. For this reason I think the sound course is to

form the organisation under such conditions as will be most likely to procure wide support for it from the start.

The attractiveness of the organisation will depend to a large extent upon the securing of a nicely judged degree of protection and responsibility for the States of which it is composed. The smaller States, both in Europe and elsewhere, would probably form no unimportant element in the successful working of the combination. To them it may be attractive to secure a firm guarantee of armed assistance against attack, although at the same time the burden imposed by a mutual obligation of defence, or an obligation to contribute to the formation of a united force, might press more heavily in proportion upon them than upon larger States. The larger States may fight shy of protective guarantees because they may fear that the chief burden of enforcing such guarantees would fall on them, although they might have had no share in the causes giving rise to an appeal for protection. They will, however, at the same time stand to gain most by the reduction which an effective organisation should cause in the number of occasions upon which international peace is disturbed. It is thus desirable to ensure, if we can, that our International Union shall be so equipped that it will be likely to secure obedience to its directions without the maintenance of an unduly burdensome military force.

An international organisation which is to be a permanent instrument of peace must recognise that war may be caused by a just desire to cancel outworn rights, and tear up obsolete treaties, as well as by an unjust desire to gain undue advan-

tages or evade reasonable obligations. A form of machinery that worked only in favour of vested interests, and gave no scope for the development and expansion of growing organisms, and the readjustment of relationships between them, would be an insufficient substitute for war.

Generally speaking, peace will be promoted by the greater extension, recognition, and observance of International Laws; but if the reign of law were made absolute and contentions were crushed by universal insistence on the *status quo* the international system would come to be felt as a shackle against which nations would revolt. We might thus expect revolutionary wars to arise at intervals whenever changing circumstances brought about a strong clash between national desires and the controlling force of a rigid international system. The form of organisation, therefore, must be one that provides for the sanctioning of changes in the mutual rights and obligations of nations, as well as for the protection of threatened rights and the enforcement of neglected obligations, and one that facilitates the amendment, as well as the formation, of International Laws.

Not least in importance among the essentials of a successful organisation is that it should include the permanent association at one place of leading representatives of all the nations concerned. The constant interchange of ideas between such representatives, their close personal intercourse, and the continuity of their common study of questions affecting international relations would afford the strongest guarantee for the harmonious solution of differences between States, and for the fruitful co-operation of different races of men in things

calculated to advance their combined progress, welfare, and happiness.

Approaching the practical problem in the light of the general propositions laid down in the last few paragraphs, I am led to the conclusion that the international organisation should be established as an outgrowth of The Hague Conference, that it should have, as its central idea, the creation of a permanent Council of leading statesmen representing the various nations of the Union, whose functions should include the making, amendment, and repeal of International Laws, the setting up of suitable tribunals for the settlement of international disputes, and the provision of means, within certain limits, for enforcing international rights and duties and restraining breaches of international peace.

I suggest The Hague Conference as the starting-point because it is an existing institution which has gone further than any other towards the exercise of functions such as I contemplate for the international organisation.

The Conference is young as an institution, and its existence thus far, and in its present form, has not prevented the occurrence of wars, including the present great world-struggle, nor have its Conventions secured for themselves anything approaching universal obedience.

Nevertheless, the Conference has been an important step towards the enthronement of the idea of international justice. The indignation called forth by non-compliance with its rules for the conduct of warfare is itself an evidence that the Conference has secured a considerable place in the public mind.

Its machinery for settling disputes has already been the means of peacefully resolving several serious international difficulties. Disputes of the United States with Mexico over the Pious Fund of the Californias; of Great Britain, Germany, and Italy with Venezuela over the claims of the latter's creditors; of Great Britain, France, and Germany with Japan over the Japanese leases; of Great Britain with France over the Muscat Dhows; of the United States with Great Britain over the Newfoundland Fisheries; and of France with Great Britain over the Savarkar case have been settled by The Hague Court; and the Dogger Bank incident, between Great Britain and Russia in 1904, was settled by means of a Commission of Inquiry under The Hague Convention.

The Hague Conference is a nucleus out of which a greater and more powerful organism may be evolved, with better hopes of success than would attend the creation of a new body without this preliminary foundation. The fact that States have met before at The Hague, and achieved certain common international purposes, is of itself sufficient to give those States some disposition to co-operate successfully amid the same surroundings for allied purposes. A State is likely to show greater hesitation in breaking away from a growing institution in whose earlier development it has borne a part than in standing out of a new institution about whose expedience it may have doubts.

Some account of the constitution and proceedings of the Conference may be desirable at this point.

The first Hague Peace Conference assembled in 1899 by invitation of the Czar of Russia. The invitation expressed the Czar's desire for "the

maintenance of the general peace and a possible reduction of the excessive armaments which are burdening all nations." Twenty-six Powers were represented, the delegates and their staffs numbering upwards of a hundred. Great Britain was represented by Sir Julian Pauncefote and Sir Henry Howard, with Vice-Admiral Sir John Fisher, Major-General Sir J. C. Ardagh, and Lieutenant-Colonel à Court as technical advisers. The Conference sat for a little over two months.

The second Conference sat in 1907. Forty-four Powers were represented, of whom the following is a list :

America (United States of)	France	Paraguay
	Germany	Persia
Argentina	Great Britain	Peru
Austria-Hungary	Greece	Portugal
Belgium	Guatemala	Roumania
Bolivia	Hayti	Russia
Brazil	Italy	Salvador
Bulgaria	Japan	Serbia
Chile	Luxemburg	Siam
China	Mexico	Spain
Colombia	Montenegro	Sweden
Cuba.	Netherlands	Switzerland
Denmark	Nicaragua	Turkey
Dominican Republic	Norway	Uruguay
Ecuador	Panama	Venezuela

Great Britain was represented by four delegates, Sir Edward Fry, Sir Ernest Satow, Lord Reay, and Sir Henry Howard, with a staff of seven legal, military, and naval technical delegates. One hundred and seventy-four names of plenipotentiaries and delegates are enumerated in the Final Act. Four committees were appointed, to whom different subjects on the programme of the Con-

ference were referred. Three of these committees were each divided into two sub-committees. There were also a drafting committee, and a committee to examine and report on the numerous addresses, books, etc., presented to the Conference. The average number of members of each committee was ninety-three. The Conference held eleven plenary meetings. It was opened on the 15th of June and its Final Act was adopted on the 18th of October.

The size of the body, the extent and novelty of its field of work, and the absence of sufficiently developed and satisfactory rules of procedure naturally rendered progress difficult. A further difficulty attending the settlement of the details of the Conventions under discussion at the Conference lay in the fact that, as the Conference was merely a body for bringing about agreements to be incorporated in Conventions between the Powers, all the Powers stood theoretically upon an equality, and each Power therefore had only one vote, regardless of the extent of population and territory under its government and the magnitude of its interest in the points at issue.

Nevertheless, the Conference turned out a considerable volume of work.

For the text of the Conventions, Declarations, and Resolutions of the Conference reference may be made to the Blue Books containing the official reports. They will also be found arranged in a convenient form, with valuable commentaries, lists of signatory Powers, and other interesting matter, in Mr. A. Pearce Higgins' book entitled *The Hague Peace Conferences*. The first Convention is that "for the Pacific Settlement of

International Disputes." The other Conventions are concerned with such subjects as "The Laws and Customs of War on Land," "Bombardment by Naval Forces in Time of War," "Neutral Rights and Duties in Maritime War," etc. The number of the Conventions in 1899 was three, but in 1907 it grew to thirteen.

The Convention for the Pacific Settlement of International Disputes declares, in its first Article, that "With a view to obviating as far as possible recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences."

It then prescribes the procedure to be followed in the case of the offer of (1) good offices or mediation by friendly Powers, (2) International Commissions of Inquiry, and (3) International Arbitration. In the following Articles it indicates the circumstances in which those processes should be called into operation :—

Article 2.—In case of serious disagreement or dispute, before an appeal to arms the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

Article 3.—Independently of this recourse the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

Article 9.—In disputes of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the Contracting Powers

deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

Article 37.—International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the award.

Article 38.—In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognised by the Contracting Powers as the most effective and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit."

Article 39.—The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article 40.—Independently of general or private treaties stipulating recourse to arbitration as obligatory on the Contracting Powers, the said Powers reserve to themselves the right of concluding new agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

The Final Act of the 1907 Conference recorded a declaration of the Conference to the following effect :—

It is unanimous—

1. In admitting the principle of compulsory arbitration.
2. In declaring that certain disputes, in particular those relating to the interpretation and application of the provisions of International Agreements, may be submitted to compulsory arbitration without any restriction.

Finally, it is unanimous in proclaiming that although it has not yet been found feasible to conclude a Convention in this sense, nevertheless the divergences of opinion which have come to light have not exceeded the bounds of judicial controversy, and that, by working together here during the past four months, the collected Powers not only have learnt to understand one another and to draw closer together, but have succeeded in the course of this long collaboration in evolving a very lofty conception of the common welfare of humanity.

The 1907 Conference also annexed to its Final Act the draft of a Convention for the creation of a Judicial Arbitration Court, which it suggested should be brought into force as soon as an agreement should be reached respecting the selection of the judges and the constitution of the Court.

The Judicial Arbitration Court proposed in this draft Convention was to be separate and distinct from the Permanent Court of Arbitration established under the Convention for Pacific Settlement of Disputes. The latter is an organisation requiring to be summoned into existence, by and at the expense of the parties, for the purpose of the settlement of a particular dispute by arbitrators (who may or may not be lawyers) chosen and appointed by the parties from a panel. The Judicial Court was to be a Court permanently maintained at the joint expense of the Powers, and consisting of persons specially skilled in International Law, appointed for periods of twelve years.

The proposal to constitute such a Court involved a very knotty problem as to how the judges, comparatively few in number, were to be appointed by a much larger number of sovereign States.

Many solutions of this problem were suggested at the Conference, but none was accepted, and so the scheme was left, and has since remained, in the form of a mere draft, capable of being turned into a real Convention if the parties could agree upon a solution of this problem.

The Final Act of the 1907 Conference recommended to the Powers the assembly of a third Peace Conference, which might be held within a period corresponding to that which had elapsed since the preceding Conference, at a date to be fixed by common agreement between the Powers. The third Conference was thus due in 1915.

The Final Act also recommended that, some two years before the probable date of meeting, a Preparatory Committee should be charged by the Governments with the task of collecting the various proposals to be submitted to the Conference, of ascertaining what subjects were ripe for embodiment in an International Regulation, and of preparing a programme which the Governments should decide upon in sufficient time to enable it to be carefully examined by the countries interested.

The pendency of the war has naturally prevented the Powers thus far from agreeing upon a date for the assembly of the third Conference. But however long it may have to be postponed, there seems to be little doubt that, when it meets, among the subjects "ripe for embodiment in an International Regulation" will be the organisation on a permanent basis of more effective means for securing that disputes shall be settled without resort to war, and of some machinery for increasing the extent of the co-operation, and diminishing

the grounds for conflict, between the nations of the world.

The suggestion of two years' preparatory work by a Programme Committee emphasises the difficulty, as well as the importance, of the subjects with which the Conference may be required to deal. By early spade-work of many labourers in different countries the final task of the Conference may be lightened. It is well, therefore, to be thinking on what lines, after the war is over, a third Hague Conference might be asked to proceed in order to establish international relationships on a firmer and more satisfactory basis.

In order to facilitate a practical understanding and discussion of the matter I propose to indicate the main problems that would need to be dealt with in drafting a new Hague Convention for the better organisation of international relations and certain methods by which they might be solved. It must be taken, however, that any proposals here put forward are merely tentative. On a matter of such difficulty, novelty, and importance one would wish not to be riveted too closely to early ideas, but to reserve full latitude for reconsideration.

Four separate functions at least will need to be discharged by the international organisation, viz. :—

1. The judicial function of settling disputes which depend on International Law or the interpretation of a treaty or on the existence or non-existence of particular facts giving rise to rights or obligations under International Law or treaty or which are otherwise of a judiciable

nature—that is to say, of such a nature that they are suitable to be dealt with by judges on the basis of fixed laws and precedents.

2. The semi-judicial function of facilitating the settlement of disputes which do not partake of the above character but require to be dealt with impartially in the light of their special circumstances and according to broad considerations of expediency and equitable policy. Such disputes are matters not so much for judges as for men of affairs, experienced in public business and well versed in international questions. They may be described as non-judiciable disputes.

3. The legislative function of making, codifying, revising, and repealing International Laws to govern the relations of the States comprised within the organisation.

4. The administrative function of managing the general business of the organisation, giving effect to its decisions, serving as the channel of communication with the member-States and facilitating co-operative action between those States.

I think it is tolerably clear that for each of the functions 1 and 2 there should be a comparatively small body acting by a majority and consisting of persons of well-recognised ability and impartiality, each of whom would hold office for a considerable period on a secure tenure and would be detached as far as possible from national influences and connections ; that for function 3 there should be a large International Council of a representative character (often described as a "Conference"),

which should have power to settle the form of laws by a majority even though the confirmation of such laws by each member-State be required in order to give them binding effect; and that for function 4 there should be a small body acting by a majority but under the direction and supervision of the International Council.

I suggest that the International Council should appoint the other three bodies. The administrative body would probably be a committee of the Council and appointed from among its members. The judicial and semi-judicial bodies should be appointed from among persons entirely outside the Council.

This plan of appointment of judges by the International Council would solve the difficulty experienced in connection with the 1907 proposal for a Judicial Court referred to earlier in this paper.

I think the International Council should probably be constituted on the basis of containing one representative of each member-State, and additional representatives of the larger States according to some carefully planned scale under which the weight of representation would depend upon population, though not necessarily bearing a strict arithmetical proportion to numbers of population. It seems unnecessary to deal here with the question of the exact numbers of population that should entitle a State to one, two, three, four, five, six, or any other number of additional representatives. This is relatively a matter of detail, although its importance is vital and far-reaching.

Constitution on such a basis would recognise in some measure the disparity between the interests,

both human and material, of States differing widely in the extent of population under their jurisdiction.

Small States may no doubt be on an equality with large in many important respects, such as their desire for peace, the average intelligence of their people, and the stability of their internal government. But it must be recognised that the greater multiplicity and importance of the international relationships of the larger States entitle these to a stronger voice in the regulation of International Law and international policy.

Under the existing régime the larger States have of necessity the greater share of power and responsibility in dealing with questions of world-wide importance. Under the proposed new régime, when such questions are submitted to the combined direction and influence of the nations acting in concert, it would seem unnatural and unfair wholly to deprive the larger States of that measure of predominance to which they are accustomed.

It is also tolerably clear that the member-States should be placed under an obligation to submit to the organisation all disputes arising between any of their number that cannot otherwise be settled; those of a judiciable nature going for final decision to the body exercising judicial functions, which may be described as the International Court of Justice, and those of a non-judiciable nature going, for consideration and recommendation, to the body exercising semi-judicial functions, which I will call the International Court of Equitable Policy (it is often described as the "Council of Conciliation"); and that the States should be under the further obliga-

tion not to go to war over a judiciable dispute at any time, and not to go to war over a non-judiciable dispute before it has been submitted or during the period of its consideration by the Court, and a reasonable period after the recommendation of the Court is published.

The organisation might conceivably stop at this limited stage in the first instance, without any compulsory legislative powers and without any backing of force or other adequate sanction, or any authority to safeguard the general peace of the world, leaving further development to evolve gradually through subsequent agreements based on the experience and the consideration of the bodies thus constituted within the framework of the organisation.

If the nations were to rest content with so modest an advance, I think they would make a mistake. They would probably not be getting within reach of the entire prevention of aggressive war, and would be obtaining an inadequate result for all the loss and suffering of the present war, and a result less favourable than with patience, determination, and courage could be secured.

Subsequent development would be better assured if a definite obligation were placed upon the International Council to evolve and recommend to the member-States schemes for enlarging the powers of the organisation by giving it wider scope for compulsory decision, greater control over the actions of the member-States, and more effective means of preserving general peace.

If, however, the certainty of a greater advance is to be obtained, the organisation must be endowed with larger powers from the start.

Broadly speaking, there are five chief respects in which the powers might be enlarged.

The first is the substitution of a majority vote of the International Council in place of unanimous confirmation by the member-States as the condition for giving binding force to International Laws.

The second is the imposition of an obligation upon the member-States to submit non-judiciable disputes to final decision instead of merely to consideration and recommendation.

The third is the introduction of an obligation for the member-States to enforce by joint action the decisions of the organisation and to restrain aggression by one member-State against another.

The fourth is the introduction of some provision for control over the national armaments of the member-States.

The fifth is the extension of the sphere of authority of the organisation beyond the limits of the member-States into regions where it will affect the action of outside nations.

As an accompaniment of larger powers some machinery might be provided for ensuring that the organisation should be representative not merely of the Governments but of the peoples of the member-States, and that the exercise of the powers should thus, to some extent, be brought under popular control and secured against autocratic abuse.

Many of the schemes for a League of Nations which have been put forward from one quarter or another during the war go some distance in the direction of the enlargement of powers. The League of Nations Society, for example, whose

programme has received very general assent among the British people, proposes that the Constitution of the League should include provision for enforcement of the obligation to submit disputes to the League's machinery for judicial or conciliatory treatment, for enforcement of the decisions of the Judicial Tribunal, and for mutual defence against attack by any State outside the League which refuses to submit its dispute to an appropriate judicial or conciliatory body.

How far the people of this and other countries would be prepared to go in the direction of larger powers it is difficult to gauge with any degree of certainty; but now that America has taken so firm a stand with the Allies and is making so great a contribution, both material and moral, to the Allied cause, it seems likely that the Allied nations would support a stronger scheme than they would have been prepared to approve at an earlier stage of the war.

There are great attractions in the idea of equipping the League of Nations with such powers as shall aim definitely and directly at the entire abolition of aggressive war between civilised peoples. To the practical man of business, as well as to the idealist, it must appear that a League which denies any place to aggressive war, and thus effectually stops a colossal waste of blood and treasure and renders possible a real limitation of armaments, will provide, in return for its imposition of restrictions and obligations, a compensation much greater than that provided by a League which merely seeks, in the case of the gravest disputes, to delay hostilities and employ conciliatory processes.

It is worth while, at any rate, to see how the plan of a League of this wider sort would look when set down in black and white. If we assume that a new Hague Convention were to be framed with the object of constituting a League of Nations for abolishing aggressive war and regulating international relations in accordance with the principles of law and equity, the substance of its main provisions might be something like the following :—

1. A permanent International Council to be created with power to make, repeal, and amend International Laws, which shall be binding upon the States that are members of the League and enforced by the League through its International Court of Justice, and with power also to consider international matters of a general character and make recommendations upon them to the member-States. The Council to have the duty imposed upon it of taking such action, within its powers, as it may deem necessary for promoting, guaranteeing, and maintaining the peace of the world and securing that the relations between States are regulated on the basis of justice and equity. The Council to consist of representatives of member-States, the appointment of the representatives of any State being made by the Government thereof and confirmed by a national assembly of such State elected by popular vote. No member-State that cannot comply with this condition as to confirmation to be entitled to representation. Each State having a specified minimum population to be entitled to one representative and States

with populations exceeding certain fixed numbers to be entitled to an additional number of representatives in accordance with a graduated scale. The Council to act by a majority.

2. The Council to maintain and keep appointed for the purposes and on the lines indicated earlier in this paper—

(*a*) an International Court of Justice ;

(*b*) an International Court of Equitable Policy ;

(*c*) an Administrative Committee.

3. All judiciable disputes between member-States not otherwise settled to be referred to and finally decided by the International Court of Justice.

4. All non-judiciable disputes between member-States not otherwise settled to be referred to and investigated and reported upon by the International Court of Equitable Policy. If in any case the report is not accepted by the parties, the dispute to be finally decided by the Court of Equitable Policy (after consideration of any objections raised by the parties against the report) in the same way as judiciable disputes are finally decided by the International Court of Justice.

5. The International Court of Justice and the International Court of Equitable Policy to be available, if desired by both parties, for settlement of judiciable and non-judiciable disputes respectively in cases in which States outside the League are concerned.

6. Each member-State at the call of the International Council to be bound to take its

proportionate share in whatever measures may be necessary for—

(*a*) preventing or ending any breach of the peace between members of the League ;

(*b*) defending any member-State against aggressive and unjustifiable attack by a State outside the League ;

(*c*) preserving the general peace of the world ;

(*d*) compelling compliance with final decisions of the International Court of Justice and the International Court of Equitable Policy.

7. Each member-State to be bound to maintain an armament not exceeding such maximum, and not less than such minimum, as the International Council may from time to time prescribe, the maximum and minimum for each State being so fixed as to be fair in relation to the population and circumstances of that State.

8. The expenses of the League to be contributed by the member-States in shares settled by the International Council ; the shares to be fair in relation to the population and circumstances of the States respectively.

9. Any proposal for alteration of the Convention constituting the League may, if not accepted by all the member-States, and shall, if any six member-States so require, be referred by the International Council to a Special Congress on which each member-State represented on the Council shall have twice as many representatives as it has on the Council. The

Special Congress may give effect to such a proposal, with or without modification, by resolution passed by not less than three-fourths of the representatives of whom it is composed.

10. Any recognised independent sovereign State to be entitled to become a member of the League and to continue a member so long as it duly discharges the obligations involved in membership.

11. Any member-State to be at liberty to withdraw from membership by one year's notice.

12. Each member-State to register with the League all treaties to which it is party and not to make, renew, or keep in operation any treaty or alliance inconsistent with the Convention constituting the League.

The adoption of such proposals as are sketched out above would require great confidence in the new organisation on the part of the statesmen and peoples of to-day. But any scheme for prevention of future war has little chance of success unless the nations are prepared to repose great confidence in some international body armed with wide powers and carefully constituted with a view to securing just administration of those powers.

The scale and completeness of the project would mark it out as forming, if it could be successfully launched, a fitting outcome of the great World-War. Amid all the blood and tears there would be some sustaining consolation if the war could merge into a great international endeavour after so lofty a purpose as the permanent establishment of an institution setting out not

merely to make the occurrence of war less easy and less frequent, but wholly to prohibit and prevent its occurrence, and to switch the nations of the world on to an entirely new and better method for adjusting their relations and settling their differences, a method resting on reason and justice instead of on violent self-assertion.

I would further invite consideration of the question whether the organisation of such a compulsory system of international justice would not provide the means of giving to the peace settlement at the end of the war a more satisfactory and permanent character than could otherwise be secured.

Great Britain and her Allies are firmly ranged together for waging the war to its issue in a clean and righteous peace which will be durable in its effect and will afford a guarantee of the future safety and welfare of nations both small and great. But what is to be the test for determining the righteousness or otherwise of any particular terms of peace? And what is to be the security for the permanence of the settlement?

When one thinks even of the main problems with which the terms must deal, and of their magnitude and complexity and the different points of view they must present to the many different nations concerned, one's mind is almost appalled by the prospect of having to decide what particular conditions must be insisted upon as essential to be secured before a final peace can be signed.

Cannot a solution be found for this difficulty in the general acceptance of the principle that an appeal to impartial justice shall be the supreme

arbiter in all differences as to terms which cannot be otherwise resolved?

If so, an authority will be required which can in the last resort declare with finality the commands of justice and secure compliance with those commands.

Would not such a body as the International Court of Equitable Policy referred to above form an appropriate authority to decide any questions upon which the Peace Conference of the belligerents at the end of the war may have difficulty in reaching agreement, and to give the stamp of the world's approval to any terms agreed between the belligerents at such Conference?

And would not such a League of Nations as that above described afford an appropriate means for securing the enforcement and any necessary revision from time to time of the Treaty of Peace between the belligerents, since that Treaty might be given the status of a law of the International Council?

Such a peace settlement would mean that Justice instead of Force would be made supreme in the determination of the issues of this war as well as in the issues of future international quarrels, disputes, and difficulties, which under the old dispensation would have been the occasion for war. It would mean the definite dissolution into thin air of the German dream of world-domination, and the practical exclusion of the possibility of realization of any similar dreams of overmastering ambition for the future.

Will Germany agree to place herself voluntarily within the controlling authority and pacific influence of such an international organisation?

Who can be sure of the true answer to this question? Who can read the hearts of the great mass of German men and women? Who can tell what changes in German outlook and conditions are destined to result from the widespread destruction of German manhood, the unmeasured German experience of sorrow and distress, the unmitigated failure of German ambitions and endeavours?

No one would envy the fate of the German people if they sought to remain outside, in chilly isolation, when the rest of the civilised world clubbed together in a common organisation for dealing with international affairs.

Whether the German people prove willing or reluctant to join when the moment for decision arrives, ought not Britain, France, America, and the many other nations allied with them, to go forward in the crusade for permanently ensuring international peace and removing the scourge of war and militarism from off the face of the earth? If so, all true lovers of Britain must wish that she should have no mean share in the bringing about of such a consummation. Britain, with her traditions of freedom, her policy of peaceful and orderly government, her genius for political action and wise constitutional development, is fitted, almost beyond any other nation, to take a leading part in helping to achieve the great ideal of the substitution of the appeal to reason and justice in place of the appeal to force as the arbiter of the destinies of States.

REVISION OF THE LEAGUE OF NATIONS COVENANT

THE Covenant has in some respects surpassed, but in other respects has disappointed, the hopes of many of the advocates of a League of Nations. It has been widely criticised, and is undoubtedly open to serious criticism in some respects. The wonder is, however, not that it should be open to criticism, but that so much should have been attained. Even in its present form it marks an extraordinary advance upon the past. Striking evidence of the ability, patience, and persistency of President Wilson and his colleagues in Paris is afforded by the fact that agreement has been reached among the representatives of so many nations upon a document representing so great a revolution in the regulation of international affairs.

The League, coming upon the world as a new growth, will need careful tending and nurture before we can be sure that it is established firmly enough to stand the strain of drastic change. Those who are eager to see a great future for the League will, therefore, in my judgment, be wise not to press for the making of large amendments in the Covenant at once, but to bend their energies for the present mainly to the task of getting the

League into active work in the form now arranged. Some delay in the amendment of its constitution, besides giving the League a better chance of becoming firmly rooted, will enable the process of amendment, when it is entered upon, to be pursued with the advantage derived from actual experience of the working of the League.

Nevertheless the need for amendment must not be shut out from view; the facts and arguments bearing upon the question of amendment must be studied, and the procedure by which amendment is to be carried out must be settled.

In my judgment the League ought to take into its own charge the work of preparing the way for the improvement of its constitution. It should realise that the question of amendment is not merely a matter of the moment, but one that will probably need frequent consideration in future, and with this prospect in view it should, as one of its first acts, set up a standing commission to study questions of constitutional revision and to advise the League upon them.

Such a commission would, of course, require to have placed at its disposal the records and evidences of the work and proceedings of all departments of the League. There would also naturally be referred to it all criticisms of the League's constitution and any proposals and suggestions for amendment either made by persons engaged officially upon the work of the League or emanating from outside sources. The commission would thus form a great mill for working up all available material with a view to producing, when the appropriate time arrives, the wisest possible set of recommendations with regard to the form into

which the constitution of the League should be shaped.

I suggest that the Conference I have the honour of addressing might usefully pass a resolution advocating the appointment of such a commission. I think it would be unwise for the Conference to commit itself to the advocacy of specific amendments, and no other resolution with respect to the revision of the Covenant seems to me necessary at this stage.

If the outcome of our discussion is to be limited to a proposition of so moderate a character, I think that in approaching the criticism of the provisions of the Covenant dealing with matters of far-reaching importance we may reasonably allow ourselves a greater sense of freedom than that which we should feel if we were contemplating the passing of resolutions recommending definite amendments.

I propose now to indicate shortly some of the most important respects in which the Covenant appears to me defective, and I have little doubt that the Conference will be satisfied that there is a good case for the making of some changes in the constitution, powers, and duties of the League.

One of the provisions of the Covenant that has given rise to the greatest searchings of heart is Article 10, whereby the members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all the members. Looked at from one point of view, this Article involves for every member what is, perhaps, the greatest boon to be conferred by the League—a new source, and a new sense, of security. The fact

that a State has a clear acknowledgment of its title to be free from trespass by any fellow-member of the League, and is also entitled as of right, in the event of an unjust attack upon its territory or independence, to call for the assistance of all its fellow-members, is calculated not only to reduce the risk of armed aggression, but in time to banish the haunting fear of aggression, which has been so grave a source of world unrest. When looked at, however, from the point of view not of the benefit conferred but of the obligation imposed upon the members, Article 10 presents considerable difficulties.

A nation may be content to rest under an obligation, onerous though it be, to join in guaranteeing the *status quo* where it is clear that the *status quo* is, under all the circumstances, just and reasonable. But supposing it should become clear that the *status quo* is unjust or unreasonable, how can all the members of the League be expected contentedly to remain under a permanent obligation to support it? Article 10 seems to involve the risk that the members of the League may be subjected to an unreasonable liability unless adequate facilities exist for enabling the League to require that changes of territorial boundaries and of political status shall be made from time to time if and when justice and reason so dictate. I do not think the facilities at present provided in the Covenant for bringing about such changes can be described as adequate.

Let me take an assumed case for the purpose of illustration. I have not myself the means of judging, and do not presume to express any opinion, as to whether all the new State-boundaries laid

down in the Peace Treaty are or are not the most suitable, but supposing it should turn out that at some place an undesirable line has been chosen, it would seem very unfortunate, to say the least, that all members of the League should be under obligation permanently to support that line and if necessary to go to war in order to defend it.

The only event in which the League would be able to force an alteration of the line, in the absence of agreement between the parties concerned, would appear to be the event of a dispute arising upon the matter, and being referred to the Council of the League, and the members of the Council, exclusive of any representatives of the parties to the dispute, being unanimous in supporting a particular alteration of the boundary. This does not seem to me an adequate security for ensuring necessary changes, and in view of the obligations imposed by Article 10, I think an amendment of the Covenant ought to be made which would give to some tribunal or authority within the League power to impose changes of boundary where a strong case is made out, even though absolute unanimity is not obtainable.

Another important matter in which the Covenant seems to me defective, concerns the relative positions of the Assembly and the Council, and the general requirement of unanimity as a condition of action by either of them. This requirement extends to all cases except those in which express provision is made by the Covenant or the Peace Treaty for action to be taken by a majority. The general scope of the powers of the Assembly and the Council is similarly defined in the case of each body, authority being given to deal with "any

matter within the sphere of action of the League or affecting the peace of the world."

Let us suppose that the League will comprise forty members, and that the Council will consist of representatives of the nine States named for that purpose in the Covenant, namely, the United States of America, Great Britain, France, Italy, Japan, Belgium, Brazil, Spain, and Greece. The nine States, if unanimous, would be able to exercise large powers. The forty States, in order to exercise the same powers, would equally require to be unanimous. A majority of the forty States, if it disapproved of action proposed to be taken by the Council of nine, could not, even though it comprised all the thirty-one States not represented on the Council, prevent the nine from taking the proposed action.

Assume further, for purposes of illustration, that eight of the members of the League should wish the League to take some important action, say for safeguarding the peace of nations under Article 11, or for controlling the trade in arms and ammunition under Article 23 (*d*), and assume that the eight were all represented on the Council, and that the remaining one of the nine States on the Council objected to the proposed action. The proposed action would in that case have to be given up unless and until the one dissentient on the Council could be persuaded to agree to it. Assume that the same proposal were then brought up at the Assembly and that the eight States succeeded there in persuading the remaining thirty-one to support it. The League would still be unable to act unless the one dissentient could be induced to withdraw its opposition. If, on the other hand, the eight

failed to persuade a single one of the thirty-one States that the action was desirable, but they succeeded by some means in overcoming the opposition of the one dissentient on the Council, the action could then at once be carried out by the Council.

Other examples might be given of the power thus residing in a single dissentient State, provided that it is fortunate enough to be represented on the Council, and of the impotence of the Assembly to take action in the face of the dissent of even a single member. Thus, under Article 22, which deals with mandates, it is provided that the degree of authority, control, or administration to be exercised by a mandatory shall, if not previously agreed by the members of the League, be explicitly defined in each case by the Council. A single member of the Council could thus negative the issuing of any mandate of which it disapproved either wholly or on some matter of detail, while all the States unrepresented on the Council would together be powerless to insist upon even a single amendment in opposition to a unanimous Council.

In view of the fact that with regard to such important matters as the amendment of the Covenant (under Article 26) and the alteration of the constitution of the Council (under Article 4), the Assembly is empowered to proceed by a majority in giving confirmation to a decision of the Council; that Article 1 leaves the admission of new members to the League to be decided simply by two-thirds of the Assembly; and that in other parts of the Peace Treaty such important decisions as, for example, those to be taken under the Annex with respect to the Saar Basin, are entrusted to a

majority of the Council, it seems to me only reasonable that some safeguards should be introduced into the Covenant to minimise the risk of the League being rendered powerless, by lack of unanimity to take action urgently required in the course of its ordinary work. I cannot help thinking that at any rate the will of an overwhelming majority of the Assembly, even in the early days of the League's career, ought to be protected against permanent obstruction at the instance of a small minority of States representing a small minority of the population within the League, except, perhaps, with regard to certain defined purposes to be expressly reserved for unanimous decision.

Even in the case of such matters as the amendment of the Covenant and the alteration of the constitution of the Council, it seems to me inexpedient that the lack of absolute unanimity upon the Council should be a complete barrier against any action being taken by the League.

A change that would tend to reduce the risk of friction and divergence of opinion between the Assembly and the Council would be the insertion of a provision requiring that the persons who are to constitute the Council should be chosen from among the representatives of their respective States on the Assembly. It seems only natural and expedient that at the deliberations of the larger body, which is to meet at longer intervals but when it meets may deal with subjects that the Council has previously been dealing with, the members of the Council should be present and able to justify their policy and actions and to assist with their advice.

The next matter to which I desire to call attention is the absence from the Covenant of any

adequate provision for the discharge of legislative functions by the League. Ultimately, as it seems to me, the most important work of the League will consist in the laying down, in a legal code, of the principles and rules which are to govern the conduct of States one towards another. I see no means of effectually preventing war except the establishment of the reign of law among nations. Although the stages of evolution may be gradual, I think the League must and will eventually become an organisation in which some appropriate body or bodies will, by majority vote, lay down positive laws to regulate those matters of world-concern which give rise to disagreement, friction, and difficulty between nations; laws which will be supported by the public opinion of the world and enforced, in case of need, by coercive machinery provided through the League.

A code of law to be evolved by the League may be expected ultimately to fall into four divisions as follows:—

1st. Constitutional law, that is to say, the law regulating the constitution, powers, duties, and procedure of the League, and the status of the member-States as constituent elements of the League.

2nd. General laws regulating the general relations between States.

3rd. Special laws regulating the relations between particular States with regard to particular matters.

4th. General laws regulating relations, not between States, but between individual and individual or between individuals and

> Governments, upon certain matters with regard to which uniformity of law throughout all the leagued States is desirable and attainable. Article 23 indicates some of the principal subject-matters with which laws under this heading might seek to deal. The framing of such general laws would seem a natural outcome of the experience to be gained by the Labour Bureau and other international co-operative institutions, the establishment of which is contemplated by the Covenant and the Peace Treaty.

It was perhaps hardly to be expected that the framers of the Covenant would go a great way towards clothing the League with full authority as a legislative organ. I think, however, it was also hardly to be expected that they would omit, as they have done, to provide expressly for the exercise of any legislative functions by the League, and I regard it as highly desirable that the omission should be repaired, and that a beginning should be made with the development of legislative machinery within the League, upon however tentative and cautious a basis. The Assembly would seem the appropriate body to entrust with legislative powers.

Another important defect in the Covenant is the lack of adequate provision for popular control. It is the great mass of the people in each country who are most vitally interested in seeing that war is prevented and co-operation is promoted among nations. In relation to the League of Nations, therefore, as well as in relation to national government, the people should know and understand what

goes on and be able to assert and enforce their united will. To this end it is expedient that the members of the body exercising paramount authority within the League should in some way be representative of and responsible to the people of the various nations. The Assembly is the only body within the League containing delegates from all the leagued States. No provision is made for ensuring that its members shall be appointed otherwise than by the unfettered choice of the Governments of the States, nor is the Assembly invested with the controlling influence over the policy and proceedings of the League. In order to give a theoretically complete democratic control the representatives on the Assembly would need to be elected by direct popular vote upon a uniform franchise, the weight of representation of the various States in the Assembly being proportioned to the relative numbers of the populations concerned. Some such form of constitution may come in time, but it would probably be taking far too great a leap to impose it upon the League at once. I see no reason, however, why a stipulation should not be made that the appointments of the representatives upon the Assembly for each State should be either made or confirmed by a national assembly elected by popular vote. If any member-State had not such a body as part of its existing constitution it could create one especially for the purpose of serving as an electoral college for appointing the national representatives upon the Assembly of the League. If the adoption of such a stipulation as to appointment of representatives were to result in the spread of democratic national parliaments of fairly uniform type through the countries comprised within the

League, this would be an indirect advantage flowing from the existence of the League.

Such a parliamentary confirmation of the appointment of members of the Assembly would have several direct advantages. It would give added dignity, authority, and power to the Assembly, and would facilitate its occupation of the position of indisputable supremacy which ought to be held by one body within the League. It would assist the development of the legislative side of the functions of the League, partly through bringing more effectually to bear upon the League the influence of those who are trained and experienced in the work of legislation, partly through facilitating the co-ordination of national and international law, and partly through placing behind the laws promulgated by the League an added weight of popular support. It would also tend to increase public interest in the proceedings of the League and public knowledge of international affairs throughout the countries comprised in the League.

The regulation of armaments is another matter upon which the League requires a better equipment than the Covenant at present gives it. Two opposite purposes need to be served by the League in this direction. On the one hand the League needs to secure that the armament of each of its members shall be kept down so as not to exceed a reasonable maximum limit, lest any member be tempted to use a position of excessive power as a menace to its neighbours or as a means of imposing an oppressive or unjust policy upon other members of the League. On the other hand the League needs to ensure that every member shall be prepared at

all times to take its fair proportionate share in the duty of using physical force, should that become necessary, for maintaining peace and securing that due effect is given to the agreed basis of international relations involved in the constitution of the League.

The Covenant recognises the necessity for reduction of armaments down to a limit which is defined in vague and elastic terms as "the lowest point consistent with national safety and the enforcement by common action of international obligations." It also provides that the Council shall formulate definite proposals for giving effect to this reduction, and that the members of the League are to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes, and the conditions of such of their industries as are adaptable to warlike purposes. The Covenant does not, however, lay down any principle with regard to the acceptance by the members of an obligation to maintain or contribute to the maintenance of the necessary forces for preserving peace and discharging police duties in connection with the League, nor does it make any provision for enabling the League itself directly to control, supervise, or check the carrying out by members of their obligations with respect to armaments. In both of these respects the Covenant seems to need amplification.

The machinery provided by the Covenant for the settlement of international disputes requires revision in more than one respect.

In the first place the obligation imposed by Articles 12 and 15 to refer disputes either to arbitration or to inquiry by the Council is expressly

limited to any dispute "likely to lead to a rupture." I see no necessity for this limitation, which seems to set a premium on threats of violence and to involve the risk of a denial of justice to States that maintain friendly relations towards others with which they are in disagreement.

In the second place, revision is required with the object of removing any opportunity for war. The old Adam dies hard. Pious declarations have come from all sides during the war that this war must be the end of all war, and never again must humanity be subjected to the tragic experiences which the stupid and barbarous practice of war inflicts upon it. In spite of these pious declarations, however, the Covenant leaves us in the position that, although sudden war is entirely discountenanced, yet if a dispute arises which the parties do not agree to be suitable for submission to arbitration and with respect to which the members of the Council, other than the representatives of the parties to the dispute, do not unanimously concur in recommendations for settlement, war remains an open course. I think it ought not to be beyond the wit of man to devise a tribunal of persons to a majority of whom all the members of the League would agree more or less contentedly to bow. The members might then join in a clear and total prohibition of war and thus save themselves, each and all, from the danger and reproach of allowing war to come among them as an admitted and acknowledged guest.

For the decision of such disputes I think the nations would probably be disposed to accept a permanent tribunal constituted for this express purpose and with special regard to its disinter-

estedness and impartiality, rather than an executive body such as the Council of the League.

The conferring of legislative powers upon the League ought to facilitate the acceptance of such a tribunal, for the development of International Law would tend to enlarge the area within which fixed standards would be available for the settlement of disputes and to restrict the area within which discretion would have to be exercised by the tribunal in their settlement.

If war can be entirely prohibited within the League, and the settlement of disputes of every kind by peaceful methods can be satisfactorily provided for, the way is made easier for the effectual regulation of armaments, since the nations will have no legitimate ground upon which to maintain armaments for use against other members, except so far as may be necessary for preserving peace and public order and upholding and enforcing the laws and decisions of the League.

Article 16 provides that should any member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other members of the League. Such other members undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a member of the League or not. It is also made the duty of the Council of the League in such case to recom-

mend to the several Governments concerned what effective military, naval or air force the members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League. These provisions seem to me to call for revision in several respects.

I think it is a mistake to treat the police action of the League as if it were the taking up of a challenge laid down through an act of war on the part of a recalcitrant member. We want to get rid of war in the old sense and not to perpetuate the idea of it by regarding a recalcitrant member as being at war with the League. I think also it would be expedient that, before compulsory action by all members of the League is required or allowed to be taken, a declaration should be made by some competent authority on behalf of the League, that the occasion has arisen for the taking of such action. I think, further, a discretion should be vested in some authority of the League to say what form the compulsory action should take. It seems to me a mistake to provide that an economic boycott should follow automatically and at once. It is by no means certain that such a boycott would be a necessary remedy or the most appropriate or the most effective remedy in the circumstances of every case. Article 16 seems to contemplate the economic boycott and the use of armed force as the only remedies. Who can say that the League may not be able to devise some other remedy less burdensome to those using it, but sufficiently drastic to be effectual in some cases? If such a remedy were available, it would seem a mistake that the League should not have the alternative of using it.

It is not clear why the procedure that is deemed appropriate in the case of the breach of Articles 12, 13 and 15 should not also be applicable in case of an aggression in breach of Article 10. My impression is that it would be well to have uniformity of procedure in all these cases.

Another matter for revision arises under Article 22. By this Article the system of administration under mandate is made applicable only to colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them. Apart from Article 22 and the declarations of policy in Article 23, the Covenant does not make any provision for securing minorities or classes of population in any State against unjust or oppressive treatment. No doubt the question of the limits within which it is wise to allow interference by the League with matters concerning internal government and administration of territories of member-States is a very thorny one, but I think there ought to be some provision made for rendering the mandatory system applicable in cases other than those specified in Article 22, if its adoption can be shown in the particular circumstances to be reasonable and expedient, and that the system should be further extended by allowing a mandate to be entrusted in appropriate cases to a commission or officer of the League, instead of to a member-State. It might also be provided that, without requiring the intervention of a mandatory, special regulations could, in suitable cases and under proper conditions, be laid down by the League with respect to the government of particular territories with a view to preventing oppression and ensuring just and orderly

administration. The sections of the Peace Treaty dealing with Poland and the Czecho-Slovak State provide that those States shall accept and agree to embody in treaties with the principal Allied and Associated Powers such provisions as may be deemed necessary by the said Powers to protect the interests of inhabitants of those States who differ from the majority of the population in race, language, or religion. It would seem to me more reasonable that special minority protection of this kind should be in the hands of the League of Nations and governed by general provisions which would allow its application to other cases for which it might prove appropriate.

I think the Covenant does not make adequate provision for the disclosure of documents affecting international relations. Article 18 provides for the registration and publication of treaties and international engagements entered into hereafter by any member of the League, but does not refer to existing treaties. It seems to me likely that the League may be embarrassed in dealing with some of the questions of international policy that may come up for its consideration, unless it has the opportunity of reference to any existing treaties and engagements affecting the questions at issue. I suggest, therefore, that some power should be vested in the League to call for the disclosure by members of any existing treaties or engagements bearing upon any particular subject-matter.

Some express provision seems also desirable for the publication of mandates issued under Article 22 and of all general regulations and laws of the League and its members affecting international action and relations.

Article 21 provides that nothing in the Covenant shall be deemed to affect the validity of international engagements or regional understandings for securing the maintenance of peace. Treaties of arbitration are cited as an example of international engagements, and the Monroe doctrine as an example of regional understandings. This vague provision, as now worded, seems to me to involve a risk of undermining to a considerable extent the benefit of Article 20, which provides that the Covenant is to abrogate all obligations or understandings of the members of the League *inter se* which are inconsistent with the terms thereof. Time alone can disclose what of the products of pre-war diplomacy would be claimed or held to come within the category of international engagements for securing the maintenance of peace, or within that of regional understandings for securing the maintenance of peace. In order to ensure that the beneficial results to be derived from the establishment of the League shall not be unduly whittled down, I think the scope of those expressions should be further defined and narrowed.

Article 1 places a fetter upon the right of a State to withdraw from the League by providing that all the international obligations of the withdrawing State, and all its obligations under the Covenant, shall have been fulfilled at the time of its withdrawal. This may perhaps make membership appear to some States more risky, and therefore less attractive, than it otherwise would be. If a State should unfortunately decide to withdraw, it should be expected in ordinary course to perform all its obligations up to the time of its departure, but it seems to me inexpedient to render the possi-

bility of withdrawal dependent on any condition save the two years' notice of intention to withdraw.

There are various other matters with regard to which one might suggest revision of the Covenant, but I have thought it best in this paper only to raise points that seem to me of major importance. Looking at the whole range covered by these points one realises what immense possibilities of development lie in the League of Nations. A new creative force has been brought into the world. No man can set a limit to the growth of the organisation which that new force is creating. No man can set a limit to the beneficent results which will flow from the co-operation of the nations under such an organisation. It is the privilege of this generation to see the foundation of a new order which offers the most hopeful possibilities for human progress. It is the responsibility of this generation to study the conditions that are necessary for the highest and best development of the League and to do all that in them lies to promote that development.

That is the spirit in which I ask you to approach the question of the revision of the Covenant. Not unmindful of the services of those whose effort has hammered out this instrument of peace, not undervaluing the product of their labours, not hesitating to accept and use the instrument as it stands and to test by experience the degree of its efficiency for the purposes it is designed to serve, let us yet frankly recognise that to all appearances its design is capable of large improvement, and that its present efficiency is probably far below that which it can be made to yield. I ask you to help in paving the way for the development of the League of Nations on such lines as experience and care-

ful thought may dictate, and with this object in view to pass the resolution set out below.

RESOLUTION.

That in the opinion of this Conference it is expedient that the League of Nations should appoint a standing commission to consider questions relating to the revision of the Covenant and to advise the League thereon.

THE DEVELOPMENT OF INTERNATIONAL LAW

How is the League of Nations going to prevent war?

VARIOUS processes will join in contributing to this end, and people differ as to which will be the most efficacious.

Some think mainly of the police functions of the League. They look upon it as a machine for meeting such a calamity as that which befell the world in August, 1914; and they trust to the organisation under it of arrangements for the combined use of military, naval and air forces, and the combined application of an economic boycott.

The League, or its members, will necessarily be armed with the means of exercising compulsory force in the last resort, and the force should be always ready and efficient. But the League would function very inadequately if it stood by until aggression occurred and merely sought to meet aggression with a counteracting force. It can be more effectively employed in counteracting the causes that produce aggression.

Some rely upon the League's settlement for its members of a scheme for the reduction and limitation of armaments. When we can arrive at the stage that all the nations of the world are members

of the League, and there is such a reduction and proportioning of armaments that, while all are together strong enough to make the League's common will supreme, no one and no group is strong enough by itself to form a menace to the rest, we shall have developed by this means a considerable safeguard against war. But I fear that some time will elapse before we shall reach this stage, and, in the meanwhile, we shall have to trust a good deal to a common acknowledgment by all members of the League that their armaments are held for no aggressive or self-seeking purposes, but in trust for guarding the common interests, purposes, laws, and decisions of the League.

Some people trust to the acceptance by disputant parties of the decisions and recommendations of impartial and permanent tribunals of the League in regard to disputes that threaten war. It will be a great gain to have effective machinery for bringing about such decisions and recommendations, but it seems doubtful how far mere confidence in the personnel of the tribunals, without some added source of influence and authority, can be relied upon to secure acceptance of their conclusions in cases giving rise to the most acute national feeling.

Some people rely upon the co-operative work of the League to create a disposition inconsistent with war. But it must be remembered that, while on the one hand co-operation fosters friendship and creates ties which form an impediment to war, at the same time by extending the field of intercourse it multiplies the possible points of friction and jealousy between nations.

The analogy of national affairs suggests that a

different line of procedure within the League is likely to prove the most effectual preventive of war.

Law as a Controlling Influence.

What is it that causes men and women in an organised political society for the most part to live at peace and to refrain from seeking, individually or in groups, to compass the destruction of their fellows?

Surely the most potent cause is that their conduct, within certain limits, is regulated by laws which allow no scope for murderous or riotous action or anarchical association. The general level of conduct is constantly being screwed up to the minimum standard set by the prevailing laws, and upon the degree of strength with which the reign of law is rooted depends the degree of security enjoyed for internal peace.

The law is a guiding as well as a controlling influence. It provides a man with a compass by which to steer clear of the risks of collision with his fellows, as well as affording a standard according to which his conduct may be judged by others.

Nations, just as much as individuals, need definite principles to guide their conduct when circumstances bring them into risk of collision with other nations. For nations, as well as for individuals, it is necessary to provide definite standards to which appeal can be made when outside authorities have to step in to settle disputes. Let us try to realise, by means of an example, the advantages that might accrue from the control of international relations by a regular system of law.

A likely cause of future dispute and war is

the immigration into a nation's territory of people of a different nationality, and especially people of a different colour. If this matter is not subjected to systematic regulation by International Law, the danger is that it will give rise to sudden bursts of hostile feeling in such strength as to make it difficult for the mere influence or authority of individuals to resist the tide of war.

Assume, however, that in the leisure of peace the representatives of all the civilised nations have together in council faced the immigration problem and settled upon a common principle for its solution, and solemnly incorporated that solution in a definite law published and known to all men through every land and recognised as a law which every nation is bound to support and enforce. If, then, the sudden dispute and burst of feeling came, there would at the same time arise among people in the disputant countries the consciousness that they were dealing with a matter for which a definite law was provided, and that the only proper course must be to have the application of the law to the particular case impartially determined and the determination carried out. In other countries bound by the general law there would arise still more strongly the conviction that the law must be obeyed, and that for the sake of vindicating it and upholding its authority any necessary influence, pressure, or compulsion must be brought to bear upon the disputants.

The same sentiment of the necessity of obedience which men are accustomed to attach to the idea of law in connection with a single organised State would attach itself to the idea of law in

relation to the League of Nations. This sentiment, resting as it does upon the habitual thought and long-inherited experience of civilised mankind, would probably exercise sufficient power to resist the tide of war and to secure that at the critical moment the League of Nations should "work" and prove the real guardian of peace that every intelligent man desires it to be.

Common Law and Statutes.

But how is the reign of law to be inaugurated under the League of Nations? How is the League to generate the atmosphere of law and to create for itself a legal system which will be sufficient to answer all international needs?

The sources of law lie partly in habit and custom; partly in reverence for tradition and precedent; partly in authority voluntarily acknowledged and obeyed; partly in authority imposing compulsory commands.

To some extent habits and customs have in fact grown up, and are continually growing up to regulate matters arising between nations. Laws based on such habit and custom are those most likely to be acceptable to the people concerned, for they represent in part the natural outcome of circumstances and in part the result of national choice. In regard to matters so regulated the main function of the League of Nations, as an instrument for the development of international law, should be to define and recognise customs when doubt or dispute arises with regard to them. A permanent Court of Justice of the League would be constantly examining, considering, sifting, reconciling, and adjudicating upon the customary

practices of nations. The decisions of such a permanent Court would be handed down and revered and followed as precedents, and thus the Court would gradually build up a connected and consistent body of common law, just as the courts in this country, through recognition of custom and adherence to tradition and precedent, have built up the common law of England.

A body of common law thus arising, while on the one hand it usually possesses the merits of consistency, reasonableness, and flexibility, suffers from two defects. In the first place it does not cover, and does not pretend to cover, with any degree of completeness, the range of human relationships, and as population grows and the points of social contact multiply its deficiency in this respect becomes more marked. In the second place it tends in course of time and in certain directions to become antiquated and get out of harmony with changing conditions and circumstances.

An International Code.

A code of statute law, therefore, requires to be created for the purpose of filling blank spaces and changing outworn legal rules and forms. In our own history statute has thus come to the relief of common law, and in the international world the need will be the same. So far as such a code can be created by means of conventions agreed to by all the nations concerned, it will be sure of possessing the virtue of acceptability, and one of the great functions of the League of Nations should be to bring about such voluntary

conventions, and thus gradually extend the scope of accepted International Statute Law.

Some limited and spasmodic effort there has been in modern times to regulate international relationships by means of general conventions. The League of Nations will be able to proceed systematically with the negotiation of such conventions. It can make a continuous effort to procure agreement, upon defined principles and rules, to govern all such phases of international conduct and relationship as are deemed most likely to give occasion for future wars.

But it is safe to predict that in spite of all the beneficent work of international judicial bodies in building up a body of common law, and of international administrative or conciliatory bodies in procuring agreed conventions for regulating international purposes, there will remain a large field which can only be covered by compulsory legislation if the danger of war is to be effectually grappled with.

I do not suggest that the League of Nations should proceed forthwith to take upon itself supreme legislative power over every part of the world and all its inhabitants, and impose its laws by sovereign authority upon all nations, whether consenting or not to acknowledge its sway. The civilised nations will, however, prove their intelligence if voluntarily, as members of the League, they combine together to create within the League an authority well designed for working out wise, just, and acceptable laws, and if they willingly accept the obligation of conforming to the laws made (and from time to time revised) by that authority, for defined purposes and within defined limits.

UNANIMITY *v.* MAJORITY VOTE.

It does not necessarily follow that such a law-making authority must be trusted at the outset with the power of acting by a bare majority, or even by a majority at all. Some progress in legislative work might be achieved by a body whose powers are dependent on the unanimity of its members. It would be difficult, however, to get any great way towards the abolition of war without breaking with what has been aptly described as the "fetish" of unanimity, and in my judgment the conservative instincts of mankind would be better employed in early days in limiting the field within which the principles of majority decision should operate than in resisting the establishment of the principle itself.

It may be assumed that, if the nations are to be ruled by compulsory laws dictated by majority vote, the voting power will be so adjusted as to give a stronger voice to nations of large population than to those of small population. A system of compulsory law would hardly be consistent with the continuance of the fiction of the equality of States. It may probably also be assumed that the legislative body would be constituted on some sort of democratic principle; that, if its members be not actually elected by popular vote, their appointment would at least be made subject to approval by a popularly elected national Assembly; for it is difficult to imagine that the people of the democratic States of the world would be willing to leave the power of international legislation beyond the reach of popular control. They would be

more likely to use the procedure for international legislation as a lever for bringing about the establishment of democratic methods of government in countries where they do not at present prevail.

The Effects of a Legal System.

What reason can there be for any nation to fear the regulation of international conduct by legal principles; or to fear the settlement of such principles by a majority fairly representing the combined voice of civilised peoples?

Is not even rough-handed justice and tolerable law of any kind better than mere anarchy and rule of violence? Is it not almost certain that the deliberate and conscious effort of a body of legislators chosen to represent the nations of the world would be at least tolerable to the great bulk of mankind? Is it not safe to go further and assert a strong probability that the common sense and common effort of the representatives of the majority of the civilised world would succeed in creating a code of law conspicuous upon the whole for fairness and wisdom?

Some people, as soon as proposals are suggested for international legislation, raise doubts as to whether the effort to enforce the laws when made would be certain to succeed. But one of the merits of a clear and definite law is that it is usually obeyed without any enforcement by compulsory authority being required, and particularly so if it is the product of a democratic constitution. A law, solemnly made after public discussion and with the sanction of an Assembly representative

of the people carries with it a great weight of public opinion. *There is little doubt that under a League of Nations wisely constituted and conducting its proceedings in the full light of publicity, a world public opinion would develop which would be just as potent to support International Law as is the public opinion of a democratic State to support the national laws of that State.*

Law under the Covenant.

The authors of the League of Nations Covenant have shown themselves unduly timid in dealing with the law-making function of the League. They have constituted an Assembly whose deliberations may facilitate the negotiation of international conventions which would partake of the character of laws, but they have not in any express manner recognised the legislative function as coming within the powers and purposes of that Assembly. They have not even ensured the growth of judge-made law by actually creating a permanent Judicial Court, although it it true they have imposed on the Council of the League the duty of propounding a scheme for the creation of such a Court.

The imperative duty of the present time is not so much to get the Covenant altered as to get it put into active operation. It is, however, to be hoped that without undue delay the peoples of the world will see that the constitution of the League is so expanded as to provide in the most efficient manner for this vital purpose of the development of International Law.

Meanwhile the League should be formally and

completely established at the earliest possible moment, and should be urged to undertake, among its first duties, the constitution of the permanent Court of International Justice contemplated by Article 14 of the Covenant, and the appointment under Article 24 of a strong commission to see how far agreement can be secured for the definition of principles to regulate international conduct and to explore the ground for a code of International Law.

The British Attitude.

To the British people these aims should appeal with peculiar force. How much of our prosperity, and our great position in the world is due to our law? It has been the charter of our liberties, the guardian of our order and progress, the guide to our world-wide influence and power.

Who among us would regard his individual life as tolerable if it consisted of the medley of mortal combat, armed preparation, anxious crises, and uncontrolled struggle for place and power that has hitherto been the lot of nations? Law is the rule of the road by which for us as individuals life's journey has been made reasonably harmonious and peaceful. The time has come when nations, too, must have their rule of the road.

Let us British people see to it that the new world constitution is as firmly based on law as our own constitution has been; that all the world shall rest as safely and peacefully as we have rested under the protection of just laws, wisely made, publicly known, and freely altered as circumstances dictate.

THE LEAGUE AND ITS MACHINERY

PREPARATION FOR THE LEAGUE.

WHEN in August 1914 the Great War burst upon the startled world, many people in different countries quickly realised that an epoch had arrived when a great effort would have to be undertaken for bringing about some permanent organisation of international relations which would serve to forestall and prevent the occurrence of similar calamities in the future.

People of vision, courage, and determination applied their minds to the resolution of this problem. They thought the matter out individually, and wrote their views upon it. Soon they got together in groups and discussed it. Eventually societies were formed to promote a wider study of the subject, the elaboration of definite plans, and the submission of proposals to Governments and peoples.

The British League of Nations Society (now incorporated with the League of Nations Union) was formed in London on May 3, 1915. The American League to Enforce Peace was formed in Philadelphia on June 17, 1915. Important societies were also formed in Switzerland and

Holland, and co-operated in founding a European society called the Central Organisation for a Durable Peace. By these and many other societies, organisations, and groups, the great conception of the League of Nations was gradually studied, developed, explained, and advocated.

Shortly stated, the aim was to establish permanent machinery which should safeguard international peace, promote international justice, and facilitate international co-operation.

It was realised by those who interested themselves in this movement that the machinery, in order to attain the maximum of efficiency, must be world-wide in its action, and further that the peace settlement at the end of the Great War was likely to provide a unique opportunity for the successful establishment of such machinery. Efforts were therefore made to get these general ideas of world-organisation so far into definite and practical shape that they could be used and applied by the statesmen at the Peace Conference, and to secure for them such wide and influential support that the Peace Conference would be likely to regard them with favour and give them effect.

The movement has been so far successful that to-day the League of Nations is no longer merely an ideal or a paper scheme, but is actually at work as a going concern.

The League Established.

Its formal establishment dates from January 10, 1920, when the Treaty of Versailles became opera-

tive, and its constitution is contained in the Covenant of the League of Nations, which forms part of that treaty. The first meeting of its Council was held on January 16th, and has been followed by numerous subsequent meetings. The first meeting of its general Assembly began on November 15th, and is still in session at Geneva, which is named in the Covenant as the seat of the League, and is now the headquarters of the Secretariat of the League.

I believe January 10, 1920, will come to be regarded as a red-letter day in the world's calendar. In my view the Covenant of the League, while it is capable of improvement and will doubtless be amended hereafter as thought and experience dictate, is a great achievement of human effort, a document well worthy to form the Magna Charta of the League. I think all well-wishers of humanity should uphold the Covenant as the supreme instrument of world-management and world-progress, and should do what in them lies to ensure that its Articles, unless and until they are altered, shall be observed in the letter as well as in the spirit by those who control the public affairs of the world.

The League being thus erected into a practical working institution, we need to deal with it in an essentially practical manner, following its actual proceedings and policy as we might those of the London County Council, the Commonwealth of Australia, the Universal Postal Union, or any other public organisation for co-operative action.

While our attitude should be thus practical, it ought at the same time to be influenced throughout by sound general conceptions.

General Principles.

At the outset, therefore, it is important to make some endeavour to define in general terms what is the ultimate purpose or ideal towards which the work of the League should be directed, and what are the broad fundamental conditions to which any action must conform in order to achieve that purpose. I think the best definition I can give is to say that the ultimate purpose is world-happiness, the essential means for attaining it is international co-operation, and the fundamental bases of that co-operation must be truth and justice.

Let us examine each of these ideas more closely.

World-Happiness—the Goal.

World-happiness as the goal involves the attainment of several things. Let me refer to a few of the most important.

You cannot have happiness without peace. I think recent experience has persuaded everyone of the truth of that proposition. And remember that it is world-happiness, and therefore world-peace, that is our goal. The world, as a whole, is not happy if Belgium or Australia or any other of its component parts are in misery. Remember, too, that so interdependent now are all sections of the world, and so extensive and rapid are the means of world-communication that a reasonable measure of happiness cannot be guaranteed even to one nation unless there is peace among all.

Again, it is not merely an actual disturbance

of peace that is inimical to happiness. The threat or apprehension of such disturbance may be an evil only less serious than war itself. We see at once, therefore, that to make happiness secure we must seek to get rid, not only of war itself, but of the threat of war and of conditions that are likely to cause war or lead to apprehension of its outbreak.

Another of the constituents of happiness is liberty. In just the same way as within a single State a reasonable measure of liberty for the individual citizen is essential to the happiness of each and all, so in world affairs a reasonable measure of liberty for each individual State to work out its own destiny and live its own life in its own way is necessary both for its own happiness and for the combined happiness of all. You cannot have liberty for all except subject to some general regulation which limits the liberty of each according to a common measure. If a man and his neighbour both desire to occupy one spot at one time, both cannot enjoy an unrestricted liberty for that purpose, but both can have a qualified liberty subject to some common fetter. Make the fetter unduly burdensome, or apply it where its application is not required for securing the liberty of both, and the sense of liberty is gone. But if the fetter is reasonable and equal in its operation, both may have reasonable happiness from the enjoyment of their qualified liberty. In a world-organisation, therefore, while the common good of all nations must be the predominating aim, a reasonable sphere of liberty must be reserved for the individual State. There must be a nice adjustment between the demands of State

sovereignty and those of International Law, between the aims of nationality and those of internationalism, between the methods of independent self-government and the requirements of ordered unity in the administration of the world's common affairs.

A fourth important element of happiness lies in material welfare. This needs little illustration. It is clear that the material condition of some of the countries in Central Europe to-day is rendering their own happiness impossible, and at the same time is destroying ease of mind and creating a sympathetic unhappiness in the minds of the people of other countries. If, therefore, the goal of world-happiness is to be successfully approached, regard must be had to the need, not only for securing peace and reasonable national liberty, but for actively promoting in some degree the material welfare of States.

International Co-operation—the Means.

The next of my general propositions is that the means by which the purpose of the League is to be achieved must be international co-operation. This follows from the actual circumstances in which the world finds itself to-day. If mankind were scattered over the world in small and isolated and self-supporting communities, there might be no need for international co-operation, but the evolution of the world has resulted in a very different state of facts, and we have to deal with the world as we find it. The world is a complex of populous and powerful communities closely

dependent one upon another and interlocked by ties of all kinds. The population is constantly growing, the ties are constantly becoming closer and more numerous, the interdependence and interlocking are always tending to increase, while at the same time the mechanism for intercommunication is being constantly speeded up. The nations are like a crowd occupying a road of limited width, growing in numbers, some desiring to move in one direction, some in the other direction, and some to stand still, and all in risk of jostling one against another, obstructing and being obstructed, injuring and being injured, cursing and being cursed. If the crowd is to get along in any reasonable and sensible way, its units must of necessity co-operate together. On some matters they may be able to arrive at a general scheme or general rules which all will understand and accept, and to which all will be expected to conform. And so far as they do not regulate their movements beforehand by such general scheme or rules and so prevent the jostling, they must find some common and accepted method for dealing with jostling when it occurs, otherwise all will be confusion and chaos. It is clear that the risk of confusion will not be avoided unless the plan and rules and method are equally applicable to all. The co-operation must be general. It is clear also that all will not be equally fitted for conforming to a general rule. Allowance must be made for the halt and the lame, for those that by habit are excessively slow and those that are impetuous or excessively fast. The co-operation must therefore have a positive side, and provide active help for some, as well as a negative side which means

restraint of all within settled lines. Needless to say also the co-operation must be systematic and continuous. It would be a poor form of regulation that applied only spasmodically and allowed a crowd at recurrent intervals to get out of hand.

Truth and Justice—the Bases.

The last of my general propositions is that the fundamental bases of the co-operation must be truth and justice. This follows inevitably from all I have been saying about happiness and co-operation, and it is so vital to the purpose of the League of Nations that the very words "truth" and "justice" ought, as it were, to be engraved upon the minds and hearts of all those who are engaged in the service of the League.

Justice is by its very nature the principle that weighs conflicting claims, makes adjustment between competing desires, gives to each his proper place upon a common plane, his reasonable share in a common interest. Justice seeks peace and abhors confusion. It is the standard by which the limits of our freedom are measured. It dictates the lines of necessary compromise.

Whichever of the three great provinces of international co-operation you regard—whether you look at the general principles or laws to which the conduct of all nations must be required on broad lines to conform, or at the settlement of particular differences and difficulties that arise among them, or at the distribution of benefits provided by common action—justice must pervade the picture. It is justice alone that can answer

all objections, quieten all fears, command all minds. Therefore, in the supremacy of justice, universal, impartial, fearless, unfailing and inevitable, but tempered as it always must be by mercy, lies the key to the successful working of the League of Nations, the means by which it can enjoy enduring life and exercise unchallenged authority.

But we cannot have real justice without truth. Justice that applies its discriminating scales to false facts is but an illusion. The League of Nations will be but wasting its time and leading the world astray unless it bases all its decisions, its laws, its guidance, its benevolent plans, upon an impregnable basis of truth. With regard to all international affairs there must lie open to it the truth, the whole truth, and nothing but the truth. It must have at its command not only the necessary means of ascertaining the facts with regard to particular problems submitted for its consideration, but also appropriate channels and permanent machinery for ensuring the continuous collection, arrangement and digestion of all important facts bearing upon international affairs. There must be so much publicity about its proceedings as is necessary for ensuring that the facts upon which it relies are openly tested in the light of day. Not only this, but the whole atmosphere in which the League lives and moves and has its being, the very breath of life of all its officers and agents, must be an absolute and unflinching respect for truth.

Without this foundation of truth and justice the League will be an insecure edifice; with it the League may be raised into an edifice so strong in the world's confidence, so expressive of common

world-ideas, that all nations in harmony and without fear will rest within its portals.

The Membership and Organs of the League.

And now, keeping these general principles in mind, let us look at the League and its constitution as they stand to-day.

It comprises already within its membership forty-one States representing the greater part of the civilised world. It is interesting to note that in accordance with the scheme of membership laid down in the Covenant, not only is the British Empire a member, but Canada, Australia, South Africa, New Zealand, and India have separate membership. The principal States not at present included are the United States of America, Russia, and the group of States that were our enemies in the Great War. Until these outside States become members, the League necessarily falls far short of being a complete world-organisation. It has not the fullness of authority, the range of knowledge and the all-pervading influence which can come only from a body representing the combined intelligence, experience, opinion, and resources of the whole civilised world; nor is it free from the risk that powerful States outside its circle and atmosphere and acknowledging no obligation to toe its line, share its burdens and advance its purposes, may drift into a position of obstruction and hostility, and combine together against the League.

The Covenant provides that certain States, among whom the United States of America is

numbered, and certain Dominions or Colonies may become members by their own act. Apart from these invited nominees it is provided that any fully self-governing State, Dominion, or Colony which gives effective guarantees of its sincere intention to observe its international obligations and accepts such regulations as may be prescribed by the League in regard to its military, naval, and air forces and armaments may become a member if its admission is agreed to by two-thirds of the Assembly. That body is the great deliberative conference of the League and upon it all the member-States have representation. Each State may send either one, two, or three representatives, as it chooses, to the Assembly, but through its representatives it exercises only one vote.

As I have already stated, the first meeting of the Assembly is now in session, and I think it is probably true to say that there is no task open to it of higher or more far-reaching importance than the task of completing the membership or, at any rate, of making the maximum of possible progress towards the completion of the membership of the League.

The Assembly, by reason of its comprehending all the members, naturally takes the place of distinction as the first organ of the League. Beside it, rather than precisely under it, stands the Council, a body which is to control the general administrative and executive work of the League, as well as to discharge various special functions committed to it under the Covenant. It is to consist in the first place of representatives of certain States entitled to permanent representation upon it, and in the second place of representatives

of certain States selected from time to time by the Assembly for this purpose. The States entitled to permanent representation on the Council are, at the start, the United States of America, the British Empire, France, Italy, and Japan. There is power, however, for the Council, with the approval of the majority of the Assembly, to name additional member-States for permanent representation. The United States of America, as it has not yet taken up its membership of the League, does not at present occupy the seat reserved for it on the Council. The States to be selected by the Assembly for representation on the Council are at the start to be four in number, but that number also may be extended by the Council, with the approval of the majority of the Assembly. The Covenant provided that until the Assembly should make its first selection the four States should be Belgium, Brazil, Spain, and Greece. The representatives of those four States, along with the representatives of the British Empire, France, Italy, and Japan, have thus constituted the first Council, and in that capacity held their first meeting on January 16, 1920, and have held numerous subsequent meetings. No State is entitled to more than one vote or more than one representative on the Council. In addition to its regular constitution as above described, the Council is to be enlarged from time to time for special business, since it is provided that any member of the League not represented shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that member of the League.

It is important to notice that both the Assembly and the Council consist, not, as in the case of our House of Lords, House of Commons, and Cabinet, of particular persons—A, B, C, etc.—but of representatives of particular States. In effect the States themselves take part in the proceedings through the instrumentality of such persons as they from time to time appoint to represent them.

In the case of both the Assembly and the Council, matters of procedure at any meeting may be decided by a majority of the members of the League represented at that meeting. Apart from procedure all decisions at any meeting of either body require the agreement of all members of the League represented at that meeting, except decisions in regard to certain matters expressly specified in the Covenant, to which I shall refer in the course of this paper, and certain matters specially referred to the League for decision under the provisions of the Treaties of Peace.

Under and assisting both the Assembly and the Council stands the permanent Secretariat, consisting of the Secretary-General and such secretaries and staff as may be required. The Covenant named Sir Eric Drummond as the first Secretary-General. Subsequent holders of the office are to be appointed by the Council with the approval of the majority of the Assembly. The under-secretaries and staff are appointed by the Secretary-General with the approval of the Council.

The present Secretariat was provisionally organised in London, but has now been transferred to Geneva as the seat of the League, where, in accordance with the provisions of the Covenant, it is to remain established.

The Secretariat is obviously a body of very great importance. It will serve as the principal channel through which the League will communicate with and derive information from its members and the outer world, and therefore the principal agency upon which the League must rely for obtaining the facts upon which its policy and decisions have to be based, and for seeing that effect is given to such policy and decisions. The Secretariat will doubtless develop in course of time into a great organisation, somewhat after the type of our Civil Service, but manned by men and women drawn from all parts of the world. Doubtless also, like our Civil Service, it will build up for itself a great tradition of high conduct and esprit de corps. Vitally important to the success of the League will be the cultivation and steady maintenance by the Secretariat of a detached and impartial view of all the matters with which it deals. The officials will have to throw off their national prejudices, proclivities, and predilections, and to develop the habit of looking at things from a common international standpoint.

The Assembly, the Council, and the Secretariat are the only organs of the League definitely created by the Covenant. Other organs, however, are contemplated.

The Permanent Court of International Justice.

Article 14 contains the very important direction that the Council shall formulate and submit to the members of the League for adoption plans

for the establishment of a Permanent Court of International Justice. The Council appointed a Committee of distinguished jurists to prepare the scheme. The Committee has held and completed its sittings at The Hague, and has already reported. The report is on the agenda for consideration by the Assembly of the League at its present meeting, and I hope and trust we shall soon see the Court duly established on a satisfactory basis and a problem thus solved which baffled the efforts of The Hague Convention of 1907.

Article 14 provides that the Court shall be competent to hear and determine any dispute of an international character which the parties submit to it, and may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly. I hope we may find that the actual scheme the members of the League will adopt will carry the competence of the Court a little further than the minimum prescribed by this Article, and that within certain limits on matters appropriate for legal decision it will allow the International Court, like our national Courts, to act at the suit of one party to a dispute and not merely on the agreed submission of both parties.

International Law.

The creation in this way of a Court for the systematic administration of justice between nations by trained lawyers acting on judicial lines will be one of the most effective means for gradually building up a body of general principles or laws, which we have already seen are most necessary for guiding and regulating the mutual relations

of States and avoiding the confusion and conflict which has been so prominent a characteristic of international relations in the past.

When we get the Court we must hope for wise judges, and with them we shall be sure to get wise laws established in course of time, but I think we are not likely to get International Law developed with sufficient rapidity by the sole process of judicial decision upon particular disputes, and this process will need to be supplemented by something in the nature of legislation. The Covenant makes no provision for systematic legislation to be undertaken as a function of the League, but it will, of course, be open for the member-States to establish laws by agreed conventions. The organisation of the League will provide such a meeting-ground and such an atmosphere as ought to make the negotiation of general conventions a far more easy and frequent process than it has been hitherto.

Commissions and Bureaux.

The Council has a general power under the Covenant to set up Commissions at the expense of the League, and this will give it valuable machinery both for supplementing the work of the Secretariat in elucidating the facts affecting particular issues, and also for obtaining expert assistance in the investigation and solution of questions which may require treatment by general conventions.

The Covenant further provides that there shall be placed under the direction of the League all

international bureaux already established by general treaties if the parties to such treaties consent, and that all such international bureaux and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League. If full advantage is taken of this provision, existing international institutions, such as the Universal Postal Union, the International Institute of Agriculture, and many others will gradually group themselves under the League, and the League will in time become the one great centre of international co-operation. Part XIII of the Treaty of Versailles provides for the holding of general conferences between representatives of the members of the League to deal with labour conditions and for the establishment of an International Labour Office as part of the organisation of the League. The Labour Office has been at work at Geneva for a considerable time. Meetings of the Labour Conference have been held at Washington and elsewhere, and legislation is already proceeding in various countries to give effect to decisions taken with a view to improvement and co-ordination of labour conditions. Special organisations are also being formed under the League for dealing with questions of disease and health and questions of transport and communications. Other questions will probably come eventually under similar treatment.

ARTICLE 23.

By the aid of this machinery of general conventions, commissions, and special subsidiary

organisations the League will be able to give effect to the provisions of Article 23, which singles out certain great spheres of human interest as matters for international co-operation. Article 23 is framed in these words :—

> Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League—
>
> (*a*) Will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations
>
> (*b*) Undertake to secure just treatment of the native inhabitants of territories under their control
>
> (*c*) Will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs.
>
> (*d*) Will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest.
>
> (*e*) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all members of the League. In this connection, the special necessities of the regions devastated during the war of 1914–1918 shall be borne in mind.
>
> (*f*) Will endeavour to take steps in matters of international concern for the prevention and control of disease.

I have quoted this Article *in extenso* in order to draw attention to the extent of the field which the League opens up for common co-operative work among all the nations of the world in the improvement of the conditions of life and the

removal of evils, inconveniences, and barriers. In the development of this work there lies great promise of increased contentment, goodwill, and understanding among the peoples of the world and a powerful antidote to war.

MANDATES.

Another important section of the scheme of the League is that dealing with mandates, provided for under Article 22.

By this Article the members of the League acknowledge that to those colonies and territories which, as a consequence of the late war, have ceased to be under the sovereignty of the States which formerly governed them, and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation; and further, that the best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience, or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as mandatories on behalf of the League. The Article goes on to state that the character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances. In this con-

nection three broad classes of cases are distinguished: Class A, certain communities formerly belonging to the Turkish Empire which require only administrative advice and assistance; Class B, other peoples, especially those in Central Africa, which are at such a stage that the mandatory must be responsible for the administration of the territory under specified conditions safeguarding the welfare of the natives and securing equal opportunities for the trade and commerce of other members of the League; and Class C, territories such as South-West Africa and certain of the Pacific Islands which can be best administered under the laws of the mandatory as integral portions of its territory subject to the same safeguards for the natives as in the case of Class B.

The degree of authority, control, or administration to be exercised by the mandatory is either to be agreed upon by the members of the League or, if not so agreed upon, is to be explicitly defined in each case by the Council.

The mandatory is to render to the Council an annual report in reference to the territory committed to its charge, and a permanent Commission is to be constituted to receive and examine the annual reports of the mandatories and to advise the Council on all matters relating to the observance of the mandates.

This scheme of mandates, besides putting a great part of the territories conquered in the war into a category very different from that of the absolute property of the conquerors, establishes, for great areas of the world's surface occupied by backward peoples, new principles of govern-

mental administration which afford large securities for the protection of native interests and the discouragement of oppression and exploitation.

The discussion of the terms and conditions to be incorporated in the various mandates is now proceeding, and naturally raises questions of the greatest difficulty, and some time must necessarily elapse before the new system is in full working order. If, when it gets fairly established, it is found to work with reasonable smoothness and success, there seems every reason to think that the principles of administration thus inaugurated will be adopted in other cases of backward territories, besides those to which Article 22 specifically extends, and that a new and better era of colonial government will follow.

Registration and Publication of Treaties.

Another new departure of great importance in international affairs is involved in Article 18, which provides that every treaty or international engagement entered into hereafter by any member of the League shall be forthwith registered with the Secretariat of the League, and shall as soon as possible be published by it, and no such treaty or international engagement shall be binding until so registered. It would be difficult to exaggerate the importance of this Article or the beneficial effect its operation is likely to have in eliciting truth, discouraging secret machinations and hostile intents, and removing sources of fear and suspicion, and the accompanying temptations to competitive armament and anticipatory war.

Variation of Treaties and Rights.

The rights of nations are, of course, to a great extent regulated and defined by treaties. In a growing and changing world changes of conditions naturally occur which render established rights unsuitable and sources of discontent. This simple fact, combined with the absence of appropriate machinery for adapting old rights to new conditions, has been a fertile source of war. The Covenant goes a long way in the direction of remedying this defect. In the first place the Assembly of the League, in which the representatives of all nations will meet at intervals and deliberate on questions affecting their common interests is expressly empowered by Article 19 to advise the reconsideration by members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world. Article 11 also declares it to be the friendly right of each member to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends. Articles 3 and 4, which set up the Assembly and the Council respectively, provide that each of these bodies may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Thus the League is not left to stand idly by while the maladjustment of international conditions

ripens into the menace of war. It can intervene betimes. In its central position, with all the information which will come to it from every quarter of the globe, with all the experience and wisdom it will acquire from the continuous handling of international problems, it will be in a position to do a great deal by way of foreseeing and smoothing away difficulties and forestalling disputes. Do not let us expect too much from the exercise of these powers in the early days while the work is novel and experience still lies ahead. As time goes by, however, we may reasonably look for a steady growth in the contentment of the world as a result of the watchful care of the League of Nations.

International Disputes.

We shall probably all be agreed that it is better to avoid disputes than to settle them, but the Covenant endeavours by Articles 12 to 17 to secure that when disputes in fact arise they shall be settled without the arbitrament of war. Every dispute likely to lead to a rupture is to be submitted either to the final arbitration and award of a tribunal agreed upon by the parties, or else to investigation and mediation by the Council of the League, to be followed, if necessary, by a report of the Council upon the facts and recommendation of terms of settlement.

War may not be resorted to in any case until three months after the award by the arbitrators or the report by the Council.

It is expressly acknowledged that disputes of a legal character, defined in Article 13, are

suitable for final decision by arbitration, and where arbitration takes place the members of the League are under obligation to carry out the award in full good faith, and they agree not to resort to war against a member that complies with it. If there should occur any failure to carry out an award, the Council of the League is to propose what steps should be taken to give effect thereto.

It seems clearly advantageous from the point of view of preventing war that the class of disputes to which arbitration is thus made applicable should be as wide as possible. This result will follow from extending the area of International Law so that the subject-matters of disputes may increasingly assume a legal character.

In the case of a dispute referred not to arbitration, but to the Council of the League, the Secretary-General is first to deal with the matter. He is to make all necessary arrangements for a full investigation and consideration, and for this purpose the parties to the dispute will communicate to him as promptly as possible statements of their case, with all the relevant facts and papers. The Council will then deal with the case. It may, if it thinks fit, forthwith direct publication of the statements of the parties. It will endeavour to secure a settlement by conciliatory methods, but if the endeavour fails it will eventually have to make and publish its report and recommendations. There is no limit to the class of disputes with which the Council may have to deal under this form of procedure. They may relate to matters either large or small. They may be wholly political in character, or partly political and partly legal, or even wholly legal. They may arise from

the desire either to maintain or to abrogate existing rights.

The results of the making of the report by the Council will vary according to whether or not it is unanimous, and in determining the question of unanimity in any case where a member represented on the Council is a party to the dispute the vote of the representative of that member is to be excluded. A unanimous report has an effect very similar to that of the award of an arbitration tribunal; that is to say, the members of the League agree not to go to war with a party to the dispute which complies with the recommendations of a unanimous report. If the report is not unanimous, there is no prohibition of war, but the members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

Two important qualifications are attached to these provisions for settlement of disputes by the Council. One is that if a dispute is claimed by one party, and found by the Council to arise out of a matter which by International Law is solely within the domestic jurisdiction of that party, or, in other words, if it is not strictly international in character, the Council is so to report, and is to make no recommendation as to its settlement. The other is that the Council may, instead of itself dealing with a dispute, refer it to the Assembly, and if either of the parties to the dispute so requires within fourteen days after submission of the dispute it must be thus referred to the Assembly. Where a dispute goes to the Assembly the procedure and results are similar to those just described in the case of the Council, except

that in order to secure the effect which unanimity gives to a report of the Council it is sufficient if the report of the Assembly is concurred in by the representatives of those members of the League that have representation on the Council and merely by a majority of the other members, excluding in each case the parties to the dispute.

The Council has already had at least two disputes referred to it: one the recent dispute between Poland and Lithuania, and the other the dispute between Finland and Sweden over the Aaland Islands. I think in both cases it may be said that the progress made towards final settlement has been reasonably satisfactory. It is to be noted that in the case of the Aaland Islands a preliminary point of law arose, and this was referred by the Council to the consideration and advice of a Commission of jurists.

Future Status of the Council.

As the work of the League increases I think the Council is likely to find itself embarrassed by the burden of discharging the functions of an impartial tribunal in all sorts of cases, both political and legal, in combination with the functions of the controlling administrative and executive authority of the League. If this should prove a substantial difficulty, a solution may perhaps be found in the delegation of particular classes of work to subsidiary Commissions, or in creating a new tribunal, somewhat on the lines of the Permanent Court of International Justice, for dealing with disputes of a non-legal character,

and confining the Council to the general administrative work of the League, or perhaps in confining the Council to the business of dealing with non-legal disputes and creating another body for administrative business.

Compulsory Pressure.

The next matter to be mentioned is the exercise of compulsory pressure by the League upon its members. This is a matter which has exercised and worried a good many minds. Personally I have not been greatly troubled by it. I have always believed, and still believe, that the main thing is to make the League universal in its operation and so to organise it that its actions and decisions and laws shall be wise and just in themselves and shall be universally known and understood. Once achieve this, and I believe there will be little need for any compulsory enforcement. The habit of obedience, reluctance to offend against general public opinion within the League, assisted perhaps occasionally by a little judicious voluntary pressure by one member upon another, will, I think, go a long way, if not all the way, towards securing the effective carrying out of League obligations.

But the Covenant does not leave the League without the means to exercise compulsion in case of need.

Article 16 provides that if any member resorts to war in disregard of the provisions as to disputes to which I have been referring, it shall *ipso facto* be deemed to have committed an act of war against

all the other members of the League, and these other members are at once to subject it to what is usually called an economic boycott. This is a form of pressure which experience has shown to be extremely severe in its action in certain cases. The stringency of its effect, however, varies according to the extent to which the particular country is able to provide the necessaries of life within its own borders. The obligation to join in compulsory pressure does not stop at the boycott. The use of armed force in case of necessity is contemplated, and a duty is laid upon the Council to recommend to the several Governments concerned what effective military, naval, or air force the members of the League shall severally contribute to the armed forces to be used to protect the Covenants of the League. These provisions imply that the members of the League will severally keep up such armed forces as will be sufficient, and can be organised together when required, to put effective pressure upon a recalcitrant State.

Regulation of National Armament.

It is at the same time clear that the maintenance of very strong armed force may become a temptation to aggression on the part of any State possessing it, and a source of jealousy, distrust, and suspicion on the part of its neighbours, and may lead to the vicious practice of competitive armament. Article 8, therefore, commits all the members of the League to a recognition of the principle that the maintenance of peace requires the reduction of national armaments to the lowest

point consistent with national safety and the enforcement by common action of international obligations. It lays upon the Council the duty of formulating plans for such reduction for the consideration and action of the several Governments. In preparing such plans the Council is to take account of the geographical situation and circumstances of each State, and the plans are to be subject to revision at least every ten years. The members also undertake to interchange full and frank information as to the scale of their armaments, their military, naval, and air programmes, and the conditions of such of their industries as are adaptable to warlike purposes. A permanent Commission is to be constituted to advise the Council on the execution of these provisions and on military and naval and air questions generally.

ARTICLE 10.

As we have already seen, the specific obligations with respect to the combined use of force apply only where there is a breach of the Articles relating to submission of disputes. There is, however, a provision in Article 10 which has received a good deal of criticism in the United States on the ground of its being likely to involve the members in the use of military force.

Article 10 says that the members of the League undertake firstly to respect, and secondly to preserve as against external aggression, the territorial integrity and existing political independence of all members of the League, and that in case of any such aggression, or in case of any threat

or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled. Such a provision seems well calculated to act as a deterrent against violent aggression and to afford a new sense of security. It gives to each of the forty-one States now in the League a contingent right to claim support from forty other States against an unlawful invasion of its territory, or its existence as an independent self-governing State, although it is true that the nature of the support to be given is undefined. The Article is open to criticism from a different angle, on the ground of the vagueness of the obligation it imposes. A certain measure of vagueness is, however, characteristic of a good many of the provisions of the Covenant. Its framers were probably wise in making its terms rather general, leaving the co-operating nations to clothe it with greater definiteness in course of time by the practices and precedents established in the course of working out its provisions. A flexible constitution which would develop on the lines dictated by a growing experience was probably more suitable in the circumstances than a very precise and rigid constitution would have been. The requirement of unanimity for ordinary decisions of the Assembly or the Council is, of course, a very strong safeguard against the subjection of the member-States to unacceptable responsibilities.

Another criticism that has been made upon Article 10 is based on the possibility that the territorial rights entitled to protection under it might in a given case be such as would justly call for change rather than support. I have already indicated that elsewhere in the Covenant machinery

is provided for enabling the League to suggest and recommend variations in existing rights, but it may well be that at some future time the nations will see the reasonableness of agreeing to some new and systematic form of procedure which would enable changes of territorial boundary to be claimed as of right in cases where their justice could be fully established to the satisfaction of an appropriate tribunal.

THE LEAGUE AND OUTSIDE STATES.

It will be noticed that the external aggression against which the guarantee of Article 10 is provided may come either from another member of the League or from an outside State. Articles 11 and 17 go still further, and show that the League is expected to interest itself in securing the peace of the world even when no member of the League is either the attacking party or the party attacked. Article 11 declares in general terms that any war or threat of war, whether immediately affecting any of the members of the League or not, is a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations; and further that in case any such emergency should arise the Secretary-General shall, on the request of any member of the League, forthwith summon a meeting of the Council.

Article 17 is more specific. It provides that where one or both of the parties to a dispute are outside the League they shall be invited to accept

the obligations of membership for the purposes of such dispute upon such conditions as the Council may deem just. If the invitation is accepted, the Articles of the Covenant dealing with disputes are to apply with any necessary modifications. It further provides that where one of the disputants is a member and the other not, and the outside State refuses the invitation to accept the obligations of membership for the purposes of the dispute and resorts to war against the member-State, Article 16 of the Covenant shall become applicable; that is to say, all the remaining members shall be deemed at war with the attacking State, and bound to defend their fellow-member by means of the economic boycott, and if necessary, by armed force. In the third place it provides that if both disputants are outside the League and both refuse the offer of temporary membership, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

Amendment of the Covenant.

To complete my sketch of the main provisions of the Covenant it is only necessary to refer now to Article 26, which looks forward to the development of the League by means of amendment of any of the Articles of the Covenant. Such amendments are to take effect when ratified by all those members of the League that have representation on the Council, and by a majority of the members whose representatives compose the Assembly. Any member that signifies dissent from an amendment

is not to be bound by it, but will cease to be a member of the League.

Problems and Difficulties.

The League has, of course, to face the solution of problems of immense magnitude and immense complexity. But it is one of the redeeming features of the late war that it has accustomed mankind to dealing with things on the grand scale, and many enterprises which before the war would have seemed impossible are now taken almost as a matter of course. We are no longer staggered by immensity.

The League will have many minor practical difficulties also to surmount, such as difficulties due to differences of language and method among the diverse groups of people of which its membership is composed; difficulties of organising the work of the many advisers, officials, and other agents both at the metropolis of the League and in different parts of the world upon whose assistance the League will have to rely; difficulties of regulating procedure so as to secure adequate publicity without at the same time prejudicing the chance of obtaining the necessary unanimity in the solution of delicate questions.

The Drawbacks of Delay.

It is of great importance that the League should allow no unnecessary delay to impede the progress of its tasks. Take for example the regulation of

armaments. Every day that is lost in effecting any possible reduction of armaments means a day's continuance of the corresponding burden of taxation. Take again the establishment of the Permanent Court of International Justice. Legal questions are already beginning to arise upon which it would be of the utmost advantage to have such a Court to adjudicate. I would mention, by way of example, the question of what kinds of documents come within the category of treaties or international engagements so as to require registration and publication under Article 18 of the Covenant. A question of that kind, if it should become a matter of controversy between members or a matter of doubt to the Council of the League in any particular case, ought to be set at rest by judicial decision. Take again the establishment within the League of some great scheme of co-operative finance as a result of the Economic Conference which has recently been sitting in Brussels at the instance of the Council of the League. The financial needs of Europe are a matter of extreme urgency, and if any practical scheme is to emerge from the voluminous proceedings of that Conference the sooner it sees daylight the better for all the world.

Support of Governments and Peoples.

The League of Nations is the biggest and most important thing in governmental organisation in existence and the Governments of the various countries ought to give to its service the men and women of the highest talent, experience, character, and wisdom at their command, and to leave no

work undone that will assist the League to bring its purposes to full fruition.

But this is not a matter that should be left to Governments alone. Upon the peoples falls the full brunt of modern war with all its evils. To the peoples will enure the benefit of that co-operation for peace, security, and happiness which forms the basis of the League. The people then of each land should make the League their own. They should become familiar with its constitution and powers, learn all they can about other countries as well as their own, study the questions and problems with which the League deals or ought to deal, watch and criticise its proceedings and policy, discourage it from error, encourage it to effort, support its authority, and acclaim its success ; and above all they should watch the doings of their own respective Governments and see that those Governments are kept up to the mark in all that concerns the League.

So we may look forward to the time when the nations shall no longer stand looking jealously and suspiciously at each other across armed frontiers, or strive to circumvent one another by devious ways and doubtful subterfuges for purely selfish ends, or nourish in their hearts conspiracies of selfish and oppressive domination, but all shall turn their eyes forward and shall work side by side in the League of Nations with mutual help and in the spirit of common brotherhood for this final goal—the common peace and happiness of mankind.

THE LEAGUE OF NATIONS IN ITS TRUE PERSPECTIVE

THE Covenant of the League of Nations opens with a Preamble which seeks to express the objects with which the High Contracting Parties agree to the Covenant. The first place among the objects is given to the promotion of international co-operation, and this is appropriate because, whatever else the Covenant succeeds or fails in providing, it clearly does provide valuable new machinery for the promotion of international co-operation.

The further objects are described as being the achievement of international peace and security. These words are not so clearly appropriate, for the Covenant, although it provides many valuable aids towards peace and security, does not go so far in either the imposition of compulsory obligations on its members or the equipment of its executive bodies with power and force as to ensure that peace and security shall in all cases be achieved. The ideal of the Covenant is co-operation rather than force.

The Preamble then goes on to summarise the methods by which it is sought to attain these objects, viz:—

By the acceptance of obligations not to resort to war;

By the prescription of open, just and honourable relations between nations;

By the firm establishment of the understandings of International Law as the actual rule of conduct among Governments; and

By the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another.

These words seem rather to foreshadow obligations more absolute and coercive than those which the Covenant actually contains.

Many people take the view that the League is the germ of an institution which will set out definitely to secure permanent and universal peace by means of coercive force based upon compulsory laws universal in their operation. Whether or not the League will grow into such an institution must depend upon the wills and efforts of those who in the future guide the policy of the various member-States; clearly the League as now constituted is not such an institution, and is indeed rather conspicuously deficient in effective coercive force.

In order to appreciate how limited are the coercive powers of the League it is necessary to consider the effect of such provisions of the Covenant as are suggestive of coercion, and in doing so it is necessary to keep prominently in mind the fact that unanimity is required by the Covenant as a condition of ordinary action on the part of either the Council or the Assembly.

Articles 10 and 16 are those that concern control of armed attacks. What do they involve in practice? Assume that Nation A, having no pending cause of dispute with Nation B, had become imbued with feelings of hostility towards and

desired to make an armed attack upon that nation. Such an attack is very justly discountenanced by Article 10, which requires a member to respect the territorial integrity of other members. But suppose Nation A actually made an armed aggression on Nation B. Nation B might then say to Nation C: "You are bound under Article 10 to preserve my territorial integrity against external aggression. Come and join me in a defensive war against Nation A." Nation C might justly reply: "Article 10 says that the members of the League undertake to preserve the territorial integrity of other members. It does not say that one member is to enter alone upon the task of preservation, nor does it prescribe what particular action any member is to take for the purpose of such preservation." Nation B might then say: "Article 10 requires the Council to advise upon the means by which this obligation shall be fulfilled. We call upon the Council to give that advice." Nation C might then reply: "The Council after all is only to advise, and if we think it puts upon us an unreasonable share of what is intended to be a common burden, we shall take the liberty of rejecting the advice." But supposing that Nation C did not choose to reserve this right of independent judgment, but determined to fall in with any advice the Council might give. Can it be supposed that unanimity would be obtained upon the Council for the giving of any advice which did not adjust the common burden reasonably among the members of the League but put the whole, or an unreasonable share of it, on Nation C alone?

Now suppose that the imagined hostility of Nation A against Nation B were connected with some dispute that had arisen between them.

Nation C could then be required under Article 16 to co-operate in a system of universal boycott or common war of defence against Nation A, but only if Nation A had resorted to war either—

1. Without first submitting the dispute to arbitration or to inquiry by the Council; or,
2. After voluntarily submitting the dispute to arbitration and in spite of Nation B's complying with the award; or,
3. After a dispute had been inquired into by the Council, and the members of the Council not representing parties to the dispute had made a unanimous recommendation for settlement and the recommendation was being complied with by Nation B; or,
4. After the dispute had been referred to and inquired into by the Assembly and a recommendation for settlement had been made by the Assembly with the concurrence of the representatives of those members of the League represented on the Council and of a majority of the other members of the League (exclusive in each case of representatives of parties to the dispute) and the recommendation was being complied with by Nation B; or,
5. Without waiting until three months after the award by the arbitrators or the report by the Council or Assembly.

When it is considered how little likelihood there is that resort to war could be justifiable in any case falling within these limits, can it be said that any undue burden is laid upon Nation C if she is

required to take merely a contributory share along with all the other members of the League in coercive measures in such a case? Outside those limits she would be under no obligation to join in any measures for suppressing the attack of Nation A.

So much for coercive action in restraint of war. Now as regards the establishment of international laws. It is true that Article 14 provides for the constitution of the Permanent Court of International Justice, and no doubt when that Court gets to work it will, like other courts, follow its own precedents and so gradually develop a system of common law based on consistent principles. But the members of the League are not bound to submit their disputes to this Court unless they choose or have specially agreed so to do, and any judge-made law evolved by the Court will thus not bind them except by their own consent.

If the scheme of the League included a Court with power not merely to decide disputes which two members voluntarily submit, but to summon a member against whom complaint is made and to give a binding judgment based on general and compulsory law, the way would be made clearer for an entire exclusion of war and an effectual limitation of armaments. But the Covenant has refrained from giving the League this power of coercive action.

No legislative powers are conferred by the Covenant upon either the Assembly or the Council. Nothing, therefore, in the nature of statute law can be brought into effect by the League except through the instrumentality of conventions to which all the members agree. Even Article 23, which indicates

certain broad principles of conduct to which the members are expected to conform, expressly states that the obligations of the members are undertaken "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon."

Article 8 requires conformity with maximum limits of armaments fixed in plans to be formulated by the Council. But the plans are merely to be formulated "for the consideration and action of the several Governments." There is no coercion, therefore, upon the members to adopt the particular limitations recommended by the Council.

Article 11 requires the League, in the event of war or threat of war, to take any action that may be deemed wise and effectual to safeguard the peace of nations. This provision is vague and general in its terms and does not impose upon the League the obligation of undertaking any specific action, nor does it make any stipulation as to the contribution of force by individual members of the League.

Outside the matters I have referred to, there seems nothing in the Covenant that could be looked upon as coercive in its operation, and I venture to suggest that the sum-total of the obligations and risks involved in membership of the League weighs lightly when set against the great benefits which are calculated to accrue to the world from the facilities provided by the League for co-operation and the cultivation of peaceful influences and just relations among the nations of the world.

Upon the co-operative side the League is strong and the requirement of unanimity, while it is a barrier to coercive action, is a strong incentive to

conciliation. I do not suggest that the machinery for co-operation is in all respects the best that can be devised, but I do say that both in its definite creations and in the scope which by reason of its flexibility it allows for progressive development, the Covenant, apart from Article 26, to which I will refer later, is finely conceived. The vagueness which characterises many of its provisions has distinct advantages. While on the one hand it softens the asperity of the novel obligations to which the members are asked to commit themselves, on the other hand it avoids the risk which a very rigid and detailed constitution involves of being not readily adaptable to meet the needs which time and experience alone can dictate with certainty. Articles 1 to 25 are wide enough to permit the League, within certain limits, to be fashioned by those who guide its destinies into an organisation of such character and power as their desire and determination and vision may dictate.

Article 26 recognises that the limits may require enlargement, and lays down the method by which change and amplification may be effected from time to time. It contains what appears to me a clear defect, and indeed what is probably the most serious defect in the whole of the Covenant, namely, that an amendment, in order to take effect, requires ratification by every one of the members of the League whose representatives compose the Council. Time alone can reveal whether the arts of reasoning and persuasion will prove adequate to procure unanimity on the Council for every amendment which circumstances may render essential to progress, but one cannot avoid some feeling of apprehension as to the trouble that might arise from

the existence of an absolute power of veto exercisable by any one of the "Council" States.

Amid all the criticism that has been brought to bear upon the detailed provisions of the Covenant it is not always easy to preserve a broad and general view of the League as a comprehensive whole and of the place it occupies in the evolution of the world. For a hundred years at least before the war the world had been making tentative but increasing efforts towards the creation of machinery for adjusting international relations by peaceful means—machinery which, at the same time, the growth of population and intercommunication were yearly making more necessary. The war did not create the need of a world-organisation for peace and justice, but startled the minds of men into realisation of the urgency and importance of that need. Another thing the war did was to force many nations into the habit of continuous co-operation on the grand scale—a habit which is one of the essentials of a peace organisation. While in these ways the war gave an immense impulse to the League of Nations movement, in another respect it put difficulties in the way, for it has left behind it feelings of bitterness between particular nations and a legacy of embarrassing problems and misunderstandings which impede the gathering together of the whole body of the civilised nations within one common bond.

The thing most to be desired for the League is universality. If it lacks universality, then, however peaceful and just its internal atmosphere may be and however closely knit its fabric, outside the sphere of its influence and control there will be interests and forces capable of ranging themselves against it.

Channels for jealousy, suspicion, misunderstanding, and friction will always exist. The risk of war will always be present. But let the League achieve universality, bring all the civilised world within the breath of its atmosphere, under the guidance of its common opinion and the swing of its common movement, then, even though it may exercise no iron control over its members, the League will have the possibility of removing the scourge of war.

Probably the best features of the Covenant are: (1) the easy pathway provided for the admission of new members; (2) the wide scope of the League's functions and permissible activities; and (3) the creation of the permanent secretariat.

The permanent secretariat provides the means for continuous collection, systematic study, and impartial review of all the facts affecting international affairs and relations.

The range of activities covered by the Covenant, and particularly by Articles 22 and 23, is so wide that practically all the chief matters calling for adjustment between nations can, with the aid of the secretariat, be brought under consideration and regulation by the League, always assuming that the spirit of conciliation and goodwill pervades the action of its members, and that all the principal nations of the world co-operate in its work.

It is almost a truism to say that if you are to prevent war you must not content yourself with attacking it at its point of outbreak, but must go down to its sources and deal systematically with the economic injustices and inequalities and the other causes of unrest and dissatisfaction which find their ultimate outlet in war.

The wide co-operation in positive and construc-

tive work to which Articles 22 and 23 must lead is well calculated firstly to remove many of the causes of war and secondly to create a co-operative spirit inimical to thoughts of war.

Objection has been taken to the Covenant in some quarters on the ground that it gives to the Executive Council conciliatory and semi-judicial functions for which a Council of this type is unfitted. A difficulty of this kind, if difficulty it be, could be surmounted by practical devices within the four walls of the League's present constitution. The Council might, for example, in the exercise of its functions with regard to disputes under Article 15, call in the aid and advice of a Permanent Commission of Inquiry and Conciliation, composed of individuals selected specially with a view to their disinterestedness and impartiality as well as their ability for the particular class of work.

It has been objected also that the Executive Council is not sufficiently subjected by the Covenant to the control and check of the deliberative Assembly. But this is a criticism most likely to be met by the development of a constitutional practice. As the Assembly is the only body representing all the members of the League, and as its proceedings will naturally attract the greatest measure of public attention, it seems only natural that a practice should gradually prevail for the Council to defer to the Assembly and for the Assembly to have the final say in all great questions of League policy.

But the success or failure of the League is not going to turn wholly or even mainly upon whether its constitution is at all points beyond reproach or whether in the Covenant all the t's are crossed

and all the i's are dotted. It is going to depend much more upon how far the League can obtain for itself the confidence of the peoples of the world and how far it can establish throughout the world the supremacy of those moral principles which lie at the root of all stable and orderly government in every community, whether large or small, namely, the principles of truth, justice, and love of the common good.

It may be that at some future time the League will develop into a Federation, a United States of the World, or it may be that it will remain always a Society of Nations, a society made up of independent national units whose individual freedom is limited only by such fetters as are essential for the reasonable freedom of other units and for the common peace and welfare of all. But whether the union be close or slight, it will demand some measure of loyalty from the conscience of every individual citizen. In a close federation the loyalty of all to the whole Union does not exclude a sense of local patriotism towards the particular State or province to which the individual citizen belongs. In the same way the national patriotism with which an independent State is regarded by its citizens is not inconsistent with the cultivation of a sense of loyalty towards a Society of States in which that independent State forms a unit. One of the most important factors for the solution of the problem of international organisation will be the due adjustment of the demands of national patriotism to the wider claims of a well-ordered Society of Nations.

THE PERMANENT COURT OF INTERNATIONAL JUSTICE

THE Permanent Court of International Justice is a creation of the League of Nations, and in my view its establishment is certainly one of the most important acts, and probably the most important of all the acts, achieved thus far by the League.

It will not be unprofitable to spend a few moments at the outset in looking at the League of Nations itself in its broadest aspects, for we shall then see more clearly how the Court of Justice fits into the general conception of the League.

The League is the greatest contribution made so far towards the creation of a common world-organisation serving similar purposes on the world-plane to those which, on the national plane, are served by the governmental institutions of a modern political State. It is not a world-State or a world-federation, and only the rash would venture to prophesy as to the likelihood of its eventually evolving into, or being replaced by, a world-State. But its design clearly fits it to discharge for all the national groups within its membership many of the services which the various governmental institutions discharge for the population of a particular State.

It will be agreed that the general aim of any Government ought to be the welfare and happiness of the governed, and the general aim of the League of Nations must be the common welfare and happiness of the populations of which it is composed. There are many elements that combine to bring about a condition of happiness, but three may perhaps be singled out as being the most essential, namely, peace, freedom, and material prosperity. With the material prosperity of the populations the Court of International Justice is not so directly occupied as are some other organs of the League, although, of course, the results of the functioning of the Court may indirectly have a great effect upon prosperity. With the securing of peace and freedom, however, the Court has the most direct and intimate concern.

For the attainment of both peace and freedom within a national State a nicely adjusted limitation requires to be placed upon the conduct and activities of all individuals. In a country with many inhabitants absolute freedom for one necessarily trespasses to some extent on the freedom of others, and the only way by which all can be guaranteed the enjoyment of a reasonable measure of freedom is the imposition of rules of conduct involving a reasonable measure of limitation on the freedom of all. President Harding gave expression to this aspect of rules of conduct when, in presenting to the United States Senate, on February 10, 1922, the seven treaties negotiated at the Washington Conference, he said: "We can no more do without international negotiations and agreements in these modern days than we could maintain orderly neighbourliness at home

without prescribed rules of conduct, which are more the guarantees of freedom than a restraint thereof."

The measure of the limitation that is to be placed upon the conduct and activities of individuals in order to secure for their fellows the enjoyment of peace and reasonable freedom involves reference to some standard, and this is afforded partly by accepted general principles or laws, and partly by the application to the particular case of some principle adopted as being fair and equitable under all the circumstances.

For the purpose of determining what is the general law or the equitable principle that ought to be applied, and for settling the terms of its application and the method of its enforcement, the assistance of some determining authority is required, and for this purpose courts of justice are created, in which, under formal procedure calculated to elucidate the true facts and secure their just consideration, a decision is ultimately given by an impartial judge or by a majority of a body of impartial judges. The creation and maintenance of such courts requires, of course, the co-operation or acquiescence of the people of the country for which they are provided. The sources of the general principles and laws they apply are various, and include the recognition of agreements to which the persons concerned are parties, the recognition of customs consecrated by long usage among the people of the country, established precedent and current practice, and statutes, decrees and orders of legislative authorities, which in turn owe their creation and maintenance to the co-operation or acquiescence of the people. To be effective as the guardian of peace and freedom a

court must obviously be capable of being set in motion by either of the parties to a quarrel or difficulty, including the Government or other authority representing the public, where the quarrel or difficulty consists in an offence against the public peace or the public interest; it must also be so constituted as to be able to pronounce a conclusive and binding judgment on the matters coming under its cognisance, and so supported that it can rely on the enforcement of its decisions.

Such is the general character of the court of justice as a national institution, and in the day-to-day expression of that character its work commonly consists of inquiry into facts, interpretation of agreements, ascertainment of laws, application of laws and agreements to facts, and determination of remedies. In the discharge of these functions, however, courts tend to assume also another function, that of supplementing the absence or deficiencies of existing law, by themselves in effect making new law.

In the modern world, with its boundless growth of population and trade and its complex inter-dependence of peoples, the same needs are unfolding themselves that, on the plane of national development, have called into existence national courts. Among nations there is the same need of securing peace and a reasonable measure of freedom, and therefore the same need of imposing limitations upon all nations in their conduct and activities. Of this fact there has been a gradually growing recognition, as we may see in the last century by such manifestations as the rise of the Concert of Europe, the introduction of the practice of International Arbitration, and the work of The

Hague Conference. The last-mentioned Conference, at its two meetings in 1899 and 1907, succeeded in establishing machinery, accessible to all nations, for facilitating the creation of arbitration tribunals and the reference of international disputes by agreement to arbitration, and it made a valiant, though unsuccessful, effort to constitute an International Judicial Court.

It was, however, reserved to the Great War of 1914–18 to bring home the conviction of the world's need to the hearts and minds of men and women with such strength as to induce the creation of a permanent world-organisation in which an International Court of Justice could successfully find a place. The Covenant of the League of Nations was woven into the texture of the Treaties of Peace, and Article 14 of that Covenant contained this provision :—

> The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

The Council of the League invited the assistance of a Committee of jurists in drawing up the scheme. The Committee held its meetings at The Hague, and in due course submitted to the Council its report and draft scheme. The Council passed on the scheme, with some recommendations for its amendment, to the First Assembly, which met in the autumn of 1920. The Assembly referred it for preliminary examination to a Committee of

its own body, and, after consideration of the report of the Committee, finally settled the form of the scheme, which was then submitted by the Council to the members of the League for adoption. By its own terms the scheme was not to come into operation until it had been adopted by a majority of the members of the League. The necessary majority adopted it before the meeting of the Second Assembly, which took place in the autumn of 1921. During that Assembly the Court was duly constituted by the appointment of the judges. The Court assembled at The Hague for preliminary business at the end of January 1922. It was formally opened on February 15, and its first ordinary session is to be commenced with such ceremonial as is considered appropriate on June 15, 1922, in the Palace of Peace at The Hague, which is to be the local habitation of the Court.

The scheme is contained in what is described as the "Statute for the Permanent Court of International Justice." It decrees that the Court "shall be composed of a body of independent judges, elected regardless of their nationality from amongst persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in International Law." The Court consists of fifteen members: eleven judges and four deputy-judges. It is provided that the number of judges and deputy-judges may hereafter be increased by the Assembly, upon the proposal of the Council of the League, to a total of fifteen judges and six deputy-judges. This provision allows reasonable scope for enlarging the Court as the membership

of the League is hereafter enlarged by the admission of Germany and the other countries that are at present outside.

The procedure for appointment of the judges and deputy-judges is as follows. First a list has to be prepared of persons from among whom they may be chosen. The persons on this list are nominated by the groups of arbitrators appointed by the Governments of various countries as members of the panel constituting the Permanent Court of Arbitration under The Hague Convention. In the case of countries belonging to the League of Nations but not represented in The Hague Court of Arbitration national groups are to be appointed by their Governments under the same conditions as apply to The Hague groups, and the national groups so appointed are to make the nominations on behalf of their countries upon the list of candidates. No group may nominate more than four candidates and not more than two of the nominees of a group may be of the nationality represented by the group. The Statute recommends that, before making these nominations, each national group shall consult its Highest Court of Justice, its Legal Faculties and Schools of Law, and its National Academies and national sections of International Academies devoted to the study of Law.

From the list of candidates thus prepared the Assembly and the Council of the League, proceeding independently of one another, elect firstly the judges, and then the deputy-judges. The Statute directs that at every election the electors shall bear in mind that not only should all the persons appointed as members of the Court possess the

qualifications required, but the whole body also should represent the main forms of civilisation and the principal legal systems of the world. Those candidates who obtain an absolute majority of votes in the Assembly and in the Council are to be considered as elected. Not more than one national of any one country is to be included in the Court, and in the event of more than one national of the same country being elected by the votes of both the Assembly and the Council the eldest of these only is to be considered as elected. If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, through the absence of agreement between the Assembly and the Council upon a sufficient number of names, a second, and if necessary a third, meeting takes place. If, after the third meeting, one or more seats still remain unfilled, a joint Conference consisting of three members appointed by the Assembly and three by the Council, may be formed at the request of either body for the purpose of recommending to both bodies one name for each seat still vacant, and in order to facilitate agreement it is provided that this joint Conference may by unanimous decision travel outside the original list of candidates nominated. Finally, if the joint Conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been appointed must, within a period to be fixed by the Council, proceed to fill the vacant seats by selection from amongst those candidates who have obtained votes either in the Assembly or in the Council, the eldest judge having a casting vote in the event of an equality of votes

amongst the judges. A complete Court is thus certain eventually to emerge.

This system of nomination and election is a little complicated, but it meets certain important practical difficulties. The requirement of the concurrence of the Council and the Assembly secures that weight shall be given to the views of both the greater States, which are in a majority on the Council, and the smaller States, which are in a majority on the Assembly. The nomination of candidates by the national groups above referred to makes it more likely that the nominations will be based on judicial qualifications, and less likely that they will be influenced by political considerations than would be the case if the nominations were made directly by the Governments of the various States.

The members of the Court are elected for nine years. When engaged on the business of the Court they enjoy diplomatic privileges and immunities. A member of the Court cannot be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions. Every member of the Court, before taking up his duties, makes a solemn declaration in open Court that he will exercise his powers impartially and conscientiously. The form adopted is as follows :—"I solemnly declare that I will exercise my powers and duties as a Judge honourably, faithfully, impartially, and conscientiously."

The Court elects its President and Vice-President for three years ; they may be re-elected. It also appoints its Registrar. The President and Registrar are required to reside at the seat of the Court.

Dr. Loder of Holland has been elected as the First President and Professor Weiss of France as Vice-President. Two well-known names figuring in the list of judges are those of Viscount Finlay, a former Lord Chancellor of this country, and Professor J. B. Moore, a distinguished jurist of the United States of America.

There is to be a session of the Court every year, and unless the Court provides otherwise by its rules this will always begin on June 15th, and will continue so long as necessary in order to finish the cases on the list. The President may summon an extraordinary session whenever necessary.

The full Court is to sit in all cases except when it is expressly provided otherwise. If eleven judges cannot be present, the number is made up by calling on deputy-judges to sit. If, however, eleven judges are not available, a quorum of nine judges is sufficient to constitute the Court.

The Paris Treaties contained two important sections dealing with matters of a technical character with regard to which international co-operation was particularly necessary, namely, Part XII (Ports, Waterways, and Railways), under which Conferences were to be held and Conventions arranged for the regulation of international interests in matters of transit and communications, and Part XIII (Labour), under which the International Labour Office at Geneva was constituted and provision made for conferences and conventions as to various labour conditions. In relation to both of these great branches of public business there are provisions for reference of differences to the decision of the Court of International Justice, and the Statute provides special procedure for

dealing with cases so arising. For labour cases the Court is to appoint every three years a Special Chamber of five judges (and to select two additional judges for the purpose of replacing a judge who finds it impossible to sit). If the parties so demand, the cases will be heard and determined by this Chamber, although in the absence of such demand the full Court will sit. In all labour cases the judges will be assisted by four technical assessors who are to have no right to vote. These will be chosen for each case from a general list, and the choice is to be made in such a way as to ensure a just representation of the competing interests. The general list is composed of two persons nominated by each member of the League and an equivalent number nominated by the Governing Body of the International Labour Office. The nominees of the Governing Body are to be half representatives of the workers and half representatives of the employers. The International Labour Office is to be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that office is to receive copies of all the written proceedings.

For cases dealing with transit and communications there is similarly a Special Chamber of five judges to which the parties may have recourse if they think fit. Provision is also made for the calling in of four technical assessors; but this is only to be done where the parties so desire or the Court so decides. The assessors are to be chosen from a list of assessors for transit and communications cases composed of two persons nominated by each member of the League.

For cases requiring speedy despatch, the Court

is required to form annually a Chamber composed of three judges who, at the request of the contesting parties, may hear and determine such cases by summary procedure.

If when a case comes to the Court it transpires that on the bench there is a judge of the nationality of one of the litigant States but not one of the nationality of the other litigant, the latter may select from among the deputy-judges a judge of its own nationality, if there is one, and, if there is not, may choose a judge, preferably from among those persons who have been nominated as candidates when the election of judges took place. If the bench contains no judge of the nationality of either of the contesting parties, each party may select a judge in the way just mentioned. Where a Labour case or a Transit and Communications case is heard by the Special Chamber provided for that purpose, and there is a national of one only of the parties sitting as judge in the Chamber, the President of the Court is to invite one of the other judges to retire in favour of a judge selected by the party unrepresented.

The remuneration of the judges is determined by the Assembly of the League upon the proposal of the Council, and all the expenses of the Court are borne by the League.

The provisions regulating the organisation of the Court, with which we have just been dealing, are contained in Chapter I of the Statute. Chapter II concerns the Competence of the Court.

The Court is to deal only with cases between States. Individual citizens will not appear before it in the character of litigants, but no doubt a

State may often take up the cause of an individual or a group of persons who are its subjects or in whom it has a special interest. Moreover, access to the Court is not limited to members of the League of Nations. It is open also to States mentioned in the Annex to the Covenant but not yet members of the League, and of course the United States of America comes at present into this category. As regards other States the Statute provides that the conditions under which the Court shall be open to them shall, subject to the special provisions contained in treaties in force, be laid down by the Council of the League. In no case are such conditions to place the parties in a position of inequality before the Court. When a State which is not a member of the League is a party to a dispute the Court will fix the amount which that party is to contribute towards the expenses of the Court.

The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force. This means that one of the parties to a dispute will have no right to summon the other party before the Court unless the other party has bound itself by treaty or agreement to submit to the Court either the particular dispute or all disputes of a class in which the particular dispute is comprised. The Commission of Jurists in their draft scheme recommended that as between States which are members of the League of Nations the Court should have compulsory jurisdiction (without requiring authority from any special convention) to hear and determine cases of a legal nature, and they defined what they meant by " cases

of a legal nature" according to a formula which had already received pretty general acceptance. The Japanese and Italian representatives on the Commission made certain reservations on this point, but the recommendation received the full support of the other members of the Commission, who wanted a real Court, to which a complaining party could come with its complaint and request that the State complained of should be cited as a defendant. The Council of the League, however, in submitting the scheme to the Assembly, did not recommend that the members of the League should be asked to place themselves as a body under this wider form of jurisdiction, and it will be remembered that the words used in Article 14 of the Covenant are "any dispute of an international character which the parties thereto submit to it." These words seem to contemplate submission by agreement of both parties.

The Council of the League did, however, propose, and the Assembly adopted the proposal, that facilities should be offered by the Statute for States that should be willing to do so to place on record a recognition that as regards themselves the jurisdiction of the Court should within certain limits be compulsory. Accordingly it is provided by the Statute that the members of the League of Nations and the States mentioned in the Annex to the Covenant may, either in the first instance or subsequently, declare that they recognise as compulsory *ipso facto* and without special agreement, in relation to any other member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning the following matters :—

(*a*) The interpretation of a treaty;

(*b*) Any question of International Law;

(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation; or

(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration may be made unconditionally or on condition of reciprocity on the part of certain States, or for a certain time.

In the event of a dispute arising as to whether the Court has jurisdiction, the Court itself decides this point.

At the formal opening of the Court on February 15th, it was announced that eighteen States had already signed the protocol accepting reciprocally the compulsory jurisdiction. It is to be hoped that this number will in course of time be increased, and that in this way the Court will at no very distant date acquire a wide range of authority for intervening at the request of one party in the classes of dispute above referred to, which are those commonly accepted as appropriate for submission to impartial judicial decision. It will be observed that, as the scope of International Law becomes extended, the range of cases for which compulsory jurisdiction can thus be accepted will automatically become enlarged to a corresponding extent.

Some possibility of doubt as to the jurisdiction of the Court to act in certain cases is removed by a provision which states that when a treaty or convention in force provides for the reference

of a matter to a tribunal to be instituted by the League of Nations, the Court will be such tribunal.

The Statute, having laid down in the way above described the extent of the Court's jurisdiction, naturally proceeds to indicate the principles by which the Court is to be guided in deciding the cases that are brought before it. The Court is to apply—

1. International conventions, whether general or particular, establishing rules expressly recognised by the contesting States ;

2. International custom, as evidence of a general practice accepted as law ;

3. The general principles of law recognised by civilised nations ;

4. Judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law. (As regards judicial decisions, however, it is expressly laid down in the Statute that a decision of the Court itself has no binding force except between the parties and in respect of the particular case. The Court is therefore under no obligation to treat its own past decisions as binding precedents, but of course it is in the nature of things that a Court functioning as a permanent organisation and consisting of judges appointed for long periods should tend, like national courts, to pursue continuous processes of thought, to hark back to its own precedents, and to work on lines of experience and tradition.)

While the Court is enjoined to have regard to the four sources of law just mentioned, the

Statute states that this is not to prejudice the power of the Court to decide a case *ex aequo et bono* if the parties so agree. There is here a recognition of the danger that attends Courts of Law of becoming too rigid in the application of established legal principles and practices, and too narrow in their outlook upon a growing and changing world. We remember how our own common law has had to be modified and supplemented by the action of Courts of Equity and by legislation. A way is opened up for litigant nations by agreement to enable the Court to escape from the trammels of strict law and move in the free atmosphere of equity.

The third and last chapter of the Statute deals with Procedure.

The official languages of the Court are to be French and English. In the absence of agreement as to which language shall be employed each party may, in the pleadings, use the language it prefers, and the decision is given in both French and English, the Court determining which of the two texts shall be considered as authoritative. The Court may, at the request of the parties, authorise a language other than French or English to be used.

The procedure consists, as in our national courts, partly of written pleadings, consisting of case, counter-case, and reply, in which the contentions of the parties are defined and supported by documents and papers, and partly of oral evidence and argument in court. The parties are represented by agents and they may have the assistance of counsel and advocates before the Court. The hearing in court is public unless the Court decides

otherwise or the parties demand that the public be not admitted.

For the service of all notices upon persons other than the agents, counsel and advocates, the Court is to apply direct to the Government of the State upon whose territory the notice has to be served. The same provision is to apply whenever steps are to be taken to procure evidence on the spot.

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note is to be taken of any refusal.

The Court may at any time entrust any individual, body, bureau, commission, or other organisation that it may select, with the task of carrying out an inquiry or giving an expert opinion.

All questions are to be decided by a majority of the judges present at the hearing. In the event of an equality of votes the President or his deputy has a casting vote. The judgment is to state the reasons on which it is based and is to contain the names of the judges who have taken part in the decision. If it does not represent in whole or in part the unanimous opinion of the judges, dissenting judges are entitled to deliver a separate opinion. The judgment is signed by the President and the Registrar and is read in open court. It is final and without appeal. In the event of dispute as to its meaning or scope, the Court is to construe it upon the request of any party. An application may be made to the Court for revision of a judgment if based on the discovery of a new fact of a decisive nature, but the application must

be made within six months after discovery of the new fact and within ten years after the date of the judgment.

The Court may, on application, permit a State to intervene as a third party in a case if the State so applying considers that it has an interest of a legal nature which may be affected by the decision in the case.

Whenever a case raises a question as to the construction of a convention to which States other than those concerned in the case are parties, the Registrar is to notify all such States, each of whom will have the right to intervene in the proceedings on condition of being bound by the construction placed upon the convention in the judgment of the Court.

Unless otherwise decided by the Court, each party to a case is to bear its own costs.

The Court is not invested with any power of enforcing its judgments, but experience has shown that awards in international arbitrations are usually obeyed, and the experience has been similar in the case of judgments of the United States Supreme Court in suits between States of the Union. The existence of the League of Nations facilitates the application of pressure to individual States, and should thus diminish any risk there might otherwise be of disobedience to the judgments of the Court.

As the Court is without power to enforce its final decisions, it is naturally also without power to issue compulsory interim injunctions for preventing injury pending the hearing of a case. The Statute does, however, give it authority to indicate, if it considers the circumstances so require, any

provisional measures which ought to be taken to preserve the respective rights of either party, and notice of the measure suggested is to be given to the parties and to the Council of the League.

Such is the Permanent Court of International Justice as now formally constituted. What is going to be the extent of its usefulness?

Its opening has been heralded with hope by the Press. A few lines may be quoted from a newspaper which is itself one of the most novel institutions of the present day, namely, the *Children's Newspaper,* in which Mr. Arthur Mee week by week provides matter of great interest for the enlightenment of those who will be the citizens of to-morrow. In its issue of February 18th the *Children's Newspaper* refers to the opening of the Court and to the suitability of its being placed at The Hague where Grotius, who published his book on International Law in 1625, first impressed upon the minds of men the need for laws binding on all nations. It goes on to say that, although a great collection of international laws was in existence before the war burst on the world in 1914, what was not in existence to make International Law effective was a Court where, by the will and command of all the world, disputes between nations could be tried under the serene and binding spirit of justice. The two concluding paragraphs are as follows :—

> Here, then, the world is provided with a tribunal that will consider any questions of international dispute in the calm, unbiased, dignified spirit of the law, with the eyes of all mankind upon them to preserve in them a mind of strict impartiality.

So at last, by general assent, the reign of reason, acting on fixed and known principles of universally admitted right, will have begun. It is a great step in advance of anything that has been arranged before, and will be welcomed by the whole world with gratitude and hope.

Are these anticipations set too high? Are they destined to disappointment? Or may we even dare to look forward to the end of war as a practical result of the establishment of this Court?

There are several considerations that point in a hopeful direction.

The Court is a permanent institution standing ready and open for business at all times. In this respect it is widely different from The Hague Court of Arbitration which merely provided a panel of arbitrators and necessitated the choice of arbitrators from the panel by the disputant parties and the appointment of an umpire by agreement before the tribunal would come into existence.

The method of appointment of the judges is such as to give reasonable security that the Court as a whole will be impartial and competent, and to justify the hope that the nations generally will have confidence in the Court. Moreover, the length of the period during which the judges will hold their appointments and work together in the Court makes it highly probable that as time goes on they will increasingly become a homogeneous body possessing an international sense and detached from national prejudices and partialities.

As already stated, the Court is not confined to the States that are members of the League of Nations or named in the Annex to the Covenant, but is open to other States subject to their making a contribution to the expenses and subject to any

other conditions the Council of the League may lay down, and there is no restriction as regards the class of disputes which the parties can, by agreement, submit to the Court's decision. It may be that the judges are better fitted for dealing with disputes to which legal standards are applicable than with those whose determination involves reference to political considerations. It must be remembered, however, that the Court will have the assistance of evidence and argument and can supplement its own deficiencies by appointing some person or a commission to carry out an inquiry or give an expert opinion.

As against these hopeful considerations it may be pointed out that the Court has no compulsory jurisdiction except so far as particular States agree to give it such jurisdiction in certain classes of cases, and therefore, subject to that exception, its protection cannot be claimed as of right by a weaker State against a stronger; and it may be urged that for this reason there is no guarantee that the Court will be used on occasions of serious crisis as an alternative to war. In reply to this it may be said, firstly, that it will be within the power of the peoples of the world to put pressure on their Governments and compel them to make full use of the Court; secondly, that after a good many cases have been tried, if the Court has shown reasonable competence in the discharge of its functions, the Governments will probably acquire a habit of recourse to the Court, and habit becomes second nature; and, thirdly, that under the League of Nations Covenant, although the League has not an absolute power of preventing war, it can delay war and use strong influences

for bringing disputant nations to the bar of the Court.

These considerations, though they justify hope, fall a good deal short of providing a certainty that the institution of the Court will spell the end of war. But the fact that within eight years from the outbreak of the Great War the deliberate efforts of peace-loving people have brought us so far on the way to the complete replacement of war by methods of reason seems to warrant the putting out of further efforts to complete the edifice of peace. For this purpose the League of Nations requires development mainly in three directions. Firstly, means should be found for extending its membership, so that the States at present outside should be brought within the scope of its purposes and obligations. Secondly, the members should be induced to accept a universal prohibition of all aggressive war, and, as the logical corollary to such prohibition, a universal obligation to submit in the last resort to the remedies provided by appropriate tribunals of the League for all grievances of States for which a remedy cannot otherwise be found. Thirdly, the members should be induced to undertake a universal obligation to stand by the League, and, at its call, to take their part in enforcing the prohibition of war and the decisions of the League's tribunals.

Submission to the remedies provided by appropriate tribunals of the League does not necessarily mean empowering the Permanent Court of International Justice to intervene and give judgment in every class of case according to its own unguided discretion. Probably it will be found expedient

in course of time for the Assembly, as the organ of the League in which all the members are represented, to be placed in a position more nearly resembling that of a Parliament, and to be invested with some power of making International Laws which would be binding on all the members and on the Court, which would interpret such laws and give them effect. At present the nearest approximation to a legislative process which the Assembly can pursue is the recommendation of draft Conventions for acceptance by the members. Probably also, under a fuller development of the League, it would be desirable to provide a tribunal of a somewhat different character from the Court for the decision of disputes which do not depend upon, but involve a claim for departure from, existing law or right or obligation. As an example of such a dispute one may cite the case of a disputed claim by a State that, owing to change of circumstances, territory formerly governed by another State ought to be placed under the government of the State making the claim. Disputes of a somewhat analogous kind arise with respect to areas of local government within the territory of a national State, and they are dealt with in different ways in different countries. In this country important disputes of that kind are settled by a process which may be described as partly legislative and partly judicial. A Private Bill in Parliament [1] is promoted by

[1] There is also another form of procedure, by Bill confirming a Provisional Order made by a Government Department after a local inquiry, but the distinction between the two forms of procedure is unimportant for the present purpose.

the parties desiring the change, and this, while it has to pass through the ordinary stages of first, second and third reading, and to run the gauntlet of discussion in each House of Parliament, like a Public Bill, is also subjected in each House to the process of consideration by a small Select Committee of disinterested members, who sit like a Court and hear evidence and arguments from parties affected by the proposed change, and accept, reject, or amend the Bill in the light of the evidence and arguments submitted.

When the time comes for the League to be clothed with the power of adjudicating, over the heads of disputant nations, upon claims for important changes in established rights and obligations, territorial or otherwise, it would probably be found that the most suitable method of adjudication in such cases would be, not a reference to the Court of International Justice, whose ordinary function would consist in supporting and giving effect to established rights and obligations, but a reference in the first instance either to a small committee of the Assembly specially selected for the purpose or to some small standing commission of impartial and very competent persons, the decision of the committee or commission being given after a formal hearing of the parties interested, and being subject to subsequent confirmation by a majority of the Assembly and perhaps also by a majority of the Council of the League. A procedure of this kind would probably involve less risk of the development of an excessive formalism or aversion to progressive change than would a purely judicial procedure.

But whatever alteration of procedure may be

desirable as an accompaniment of the development of the League of Nations into a fuller organ of peace and justice, taking the League and the Court of International Justice as they stand, most people into whose minds there has come some realisation of the tragedy through which the world has passed since August 1914 will think that an unconditional reference of a dispute of any kind to the final decision of the Court would probably be more tolerable than reference to the arbitrament of war.

We hear a great deal nowadays about the problems of securing France and other countries against invasion, of bringing about a general reduction and limitation of armaments, with consequent economy of public expenditure, and of stabilising the economic position of European and other countries. The only really effective solution for these problems and many others lies in the complete abolition of aggressive war, which can be obtained by the development of the League of Nations, and in no other way. It is probable also that the most hopeful method of seeking to attract the United States into the League of Nations is to be found in the acceptance by the League of the twin principles of the complete abolition of war and the compulsory settlement of disputes. These matters are so important that, even at the risk of some repetition, it would be well to set forth in a series of short and connected propositions the main considerations involved and the chain of reasoning which seems applicable. Incidentally, this will serve to show how important is the part that the Court of International Justice can play if it rises to the height of its oppor-

tunity and proves itself worthy of the world's confidence.

The fundamental fact is the degree of unity the world has now attained. It is clearly established that the interests of all nations have become interdependent, and from this it follows that a common world-organisation is required to adjust and safeguard those interests, and the common good of all nations must be the accepted aim of that organisation and provide its animating spirit and cohesive force.

But such a world-organisation cannot function securely unless the world is at peace, and the world's peace cannot be guaranteed unless all nations are denied the liberty of any resort to aggressive war.

Resort to war cannot be successfully prevented unless the influence of national Governments and the corporate action of nations is ranged against it, for experience has shown that in the crisis of war, or contemplated war, the pacific efforts of individuals, however numerous, have little chance of making headway against the determination of their Governments.

But the corporate action of nations and the influence of national Governments cannot reliably be enlisted against war unless some other and adequate system is provided for the remedy of the grievances of nations and the removal of the friction that comes from want of adjustment to changing conditions.

A system for the remedy of the grievances of nations can only succeed if it rests on the universal application and supremacy of justice, which, in its essence, is the principle that weighs conflicting

claims and balances with fairness and impartiality competing interests.

The application of the principle of justice to the concrete facts of the world involves the interposition of a determining authority which can be relied upon with certainty to give definite decisions whenever occasion arises. To ensure the certainty of definite action the authority must be either a single will, or else a combination which acts along lines indicated by a majority of the component wills, and so is not dependent for its operation upon the obtaining of unanimity among minds that may prove divergent.

The conditions essential for enabling an authority to give decisions based on the principle of justice in any given case are, firstly, accurate ascertainment of the true facts of the case, and secondly, application to those facts either of a general standard of justice, such as an established rule of law, or else a standard of justice commending itself to the mind of the deciding authority as fair and equitable under the circumstances of the particular case.

The decision of such an authority is ineffective unless it is obeyed.

Obedience may flow automatically from the respect and confidence commonly yielded to an authority of recognised eminence and proved ability, but it needs to be guaranteed by an obligation of support on the part of all those over whom the jurisdiction of the authority extends, and who, therefore, benefit actually or potentially through its effective functioning.

These consecutive propositions, if they are sound, taken together, warrant the broad conclusion that

to secure a guarantee of peace for the world we must have competent tribunals, acting by majorities, after impartial investigation, issuing effective decrees based on truth and justice, for the remedy of proved national grievances, and functioning as part of a world-organisation dedicated to the common good of humanity.

The establishment of the Permanent Court of International Justice, if it has not put us in complete possession of this guarantee, has at least taken us a long way towards its attainment.

THE DUTIES OF NATIONS

EXPERIENCE of the Great War has made it clear that a radical departure from pre-war conceptions of international relationships is necessary, if civilisation is to survive and progress.

The only satisfactory basis for a new world-order is the universal reign of a system of International Law which will impose tolerably just conditions for the regulation of the conduct of nations one towards another.

The establishment of the League of Nations and the Permanent Court of International Justice has taken the world a long step towards the attainment of this purpose. They provide permanent machinery by means of which, with the acquiescence and goodwill of Governments and peoples, universal co-operation can occur in the various essential processes, that is to say, in the treatment of the world as one organic whole composed of interdependent parts, the escape from the obsession of national prejudice and self-interest, the application of a detached and impartial judgment to the settlement of international questions, and the generation of a force of common public opinion, resulting, if need be, in common action, for the support of common standards of conduct.

It is true that all nations are not yet partakers

in this system of international organisation, but the omens point towards the progressive development of the organisation, and it is at any rate a matter of widening desire, even if it be not a matter of reliable forecast, that the League of Nations will sooner or later become universal in its composition and operations.

But, even with the machinery of the League and the Court successfully erected on a permanent basis, the development of such a system of International Law as will suffice for procuring a peaceful and orderly world will necessarily be slow. It involves a wide extension of the existing field of International Law, the authoritative definition of its principles and rules, and their expansion into a complete and unified system.

How soon organised mankind can be induced to enforce, or even to approve, the essential rules for its conduct depends on the action of a great many different people in a great many different countries, but progress ought not to be delayed by any failure or indisposition on the part of individuals in the more progressive countries to face the problem and form their own conceptions as to how it should be solved. This is my reason for adventuring into the boundless field of international relations and endeavouring to compress into a few short propositions my conception of the chief duties which ought to be accepted as owing by all nations to the other members of the great community of nations in order to afford a secure basis for a reasonable and tolerable international life.

In approaching the subject it is necessary to keep in mind the fact that the world is made up of a large number of separate political States which are

jealous of their independence and national freedom, and yet that these States are closely and ever more closely connected by ties of interdependence so that the world has a unity, and a unity which tends always and rapidly to become more pronounced.

Clearly the first and most obvious duty of a State ought to be to refrain from making aggressive war or violent attack upon its fellow-States. I think this may almost be taken as axiomatic. No enlightened person will tolerate the idea of a régime of aggressive violence or organised murder among the members of an individual State, and there seems no better ground for tolerating similar conduct on the part of any member of the great society of States. While violence reigns, the voice of reason and justice cannot obtain a hearing.

But a clear distinction must be drawn between aggressive war or unlawful attack and the use of the physical force necessary for self-defence or for upholding the common will and protecting the common interests of the society of States against wrongdoers. The use of such force is not inconsistent with reasonable national freedom, for freedom cannot be securely enjoyed except under such common limitations as are required in order to secure the same measure of freedom for all.

I define the first duty of States, therefore, as follows:—

I. No Aggressive War.

No State shall make aggressive war upon another State, or use or threaten to use armed force against another State, except in self-defence or in performance of a common duty of all States to co-operate for the purpose of restraining any breach of the peace of the world, or for the purpose of ensuring compliance with international laws, conventions or obligations.

The complete prohibition of war carries with it, as a necessary corollary, the obligation to submit all disputes in the last resort to final settlement by some form of peaceful decision. It would seem obviously unfair and unreasonable to take away the right of self-redress without giving a right to require redress at the hands of some tribunal, and such a right for one disputant involves an obligation on the part of the other disputant to submit the dispute to the tribunal. The League of Nations provides machinery by means of which tribunals are or can be constituted under conditions reasonably calculated to secure impartiality and avoid national bias. The tendency of the League will be to generate an atmosphere of detachment in which issues between nations will be judged from a broad international standpoint instead of from narrow national standpoints.

The establishment by the League of the Permanent Court of International Justice has provided a tribunal which is at any rate appropriate for dealing with very many disputes.

The framers of the Covenant have shrunk from providing for the entire exclusion of war and for the acceptance of peaceful means for the decision of all disputes. Doubtless, however, the course of evolution will add both of these factors to the League's constitution. The necessity for reduction in expenditure on armaments will provide a strong lever for bringing about this result. So long as war remains both possible and permissible, large national armaments are or may be needed, and the maintenance of large national armaments in itself tends to produce wars. Thus the nations go round in a vicious circle, and only the complete

prohibition of war and the reference of every dispute in the last resort to some tribunal is calculated to break that circle.

It must be recognised that the settlement of disputes, while in some cases involving the ascertainment and upholding of existing rights and boundaries and vested interests, may in other cases involve the alteration of such rights, boundaries or interests. By such alteration alone in some cases can sources of discontent be removed, legal rights be adapted to changing circumstances, and the rule of justice and equity be established. The available tribunals must therefore include not only legal tribunals but tribunals suitable for dealing with questions of equity and policy.

The second duty of States, therefore, I define as follows:—

II. Peaceful Settlement of Disputes.

If a State is party to any dispute (including a dispute as to existing rights, obligations, interests or boundaries, or a disputed claim for the alteration of rights, obligations, interests or boundaries, or a dispute of any other kind), and such dispute is not settled by other means, the State shall, in conjunction with the other disputant, submit the same to the decision of an impartial tribunal. If the parties to the dispute do not agree upon a tribunal, and a permanent tribunal appropriate for the particular type of dispute is provided by the League of Nations, the submission shall be to that tribunal.

We have next to consider what may be described as the everyday conduct of nations. It seems reasonable that a standard of conduct should be exacted between aggregates of men very similar to that which is exacted between man and man

within the limits of a political State. We are all accustomed to recognise as binding duties the punctual payment of debts, the performance of agreements, and the avoidance of fraud, assault and other forms of injury and offence. The question of physical violence between nations has already been dealt with under heading No. I. Other injuries remain to be covered. It seems unnecessary here to state at any length the considerations leading to the particular form of words adopted, and I will proceed at once to set out the suggested definition of duties as follows:—

III. Discharge of International Debts and Obligations.

Every State shall discharge every international debt and perform every international agreement or obligation to which it is a party unless released therefrom by agreement or by a decision of a tribunal or authority having jurisdiction to direct such release.

IV. No Ill-treatment of other States or their Subjects.

No State shall defraud, oppress, or stir up enmity against another State or the subjects thereof.

But it is not sufficient for a State to discharge its own obligations and to refrain from committing injuries in its collective capacity. The subjects of a State have agreements to perform and duties of forbearance to observe towards foreigners and foreign States, and if each State is to preserve its

independence and to be free from internal interference by foreign States, which seems essential for the safeguarding of peace and the maintenance of friendly relations, the State must undertake responsibility for bringing pressure to bear upon its own subjects with a view to ensuring that they shall act up to their obligations. Under the next heading, therefore, I provide for this responsibility.

V. Restraint of Subjects.

Every State shall prevent or restrain any aggression, injury or unjustifiable action by its subjects against another State or the subjects thereof, and shall do all things in its power to secure that its subjects shall discharge their debts and perform their agreements and obligations to other States and the subjects thereof.

In order to ensure the preservation of peace and public order in the world, a State must be prepared not only to limit its own actions by due consideration for the interests of other States and to accept responsibility for controlling its own subjects, but also to undertake a due share in the common task of all nations to restrain any breach of the world's common peace or any defiance of the world's common law by an individual State. This duty is, after all, only parallel to the duty recognised by municipal law for the individual citizen to assist in preserving the public peace within the State and in repressing serious crimes. In this country, as in others, the stage has been reached in which the community organises for itself highly specialised police forces to do the work of preserving the public peace and prosecuting offences against the criminal

law, but, nevertheless, the English law recognises a duty on each individual to assist the police in the maintenance of the peace and the arrest of criminals committing atrocious crimes. The growing interdependence of nations makes it of the utmost importance in the interests of all to ensure that the occurrence of war in any part of the world shall be prevented, especially in view of the horrible characteristics war has developed and the tendency it has acquired to spread over wide areas. It is for the advantage of all nations, therefore, including the most peace-loving, that they should co-operate so far as may be necessary in the preservation and restoration of world-peace.

But in order to preserve the peace effectively it is not sufficient to wait until war breaks out or is on the point of breaking out. War may arise not merely from aggressive motives but also as a defence or protest against the breach of obligation or duty by another nation. The authority and pressure of all nations ought, therefore, to be directed co-operatively, not only against aggressive war, but also against such breaches of fundamental obligations and duties as are calculated to give rise to armed protest by the injured party.

It does not seem safe to leave to each individual State discretion for deciding whether and when it is entitled or bound to intervene for the purpose of putting pressure upon another State in the interests of peace and the discharge of international obligations. The duty of intervention thus requires to be limited to cases where there is a tribunal or authority having jurisdiction to call for co-operative intervention and a requisition has been issued by such tribunal or authority. I suggest, therefore,

that under this heading the international rule should stand as follows:—

VI. Preservation of Peace and Enforcement of International Obligations.

Every State shall do all things within its power which are necessary to give effect to a requisition (issued by a tribunal or authority having jurisdiction to issue the same) requiring all States to co-operate for the purpose of restraining any breach of the peace of the world or for the purpose of ensuring compliance with international laws, conventions or obligations.

I think the standard of international conduct to be exacted from nations at this stage of the development of civilisation ought not to be confined to what may be described as the negative side—the prohibition and restraint of violence and of injurious or offensive conduct.

For promoting the common good of nations and helping to harmonise their relations and thus remove causes of war among them, I think some measure of positive co-operation and assistance may be required, and particularly in those purposes which are essential to mutual intercourse and trade. My proposition on this subject is included under the two following headings:—

VII. Facilities for Entry and Exit of Persons and Goods.

Every State shall afford such facilities for the entry and exit of persons and goods into and from its territory as shall be required by common justice and the common welfare of the world.

VIII. Facilities for Through Transit.

All States shall co-operate one with another to permit, provide and maintain to the fullest possible extent facilities for the ready and rapid transit of persons and goods through their territories and to keep safe and unobstructed all highways of the world by land, sea and air.

The retention by a State of a right of independence and freedom from the intervention of other States with its internal affairs fairly involves a correlative obligation on the part of the State to see that its internal affairs are conducted on a reasonable basis befitting a member of the society of civilised nations. Its internal government and administration should provide adequate security for the proper treatment of foreigners and against the occurrence of conditions involving menace or offence to other States, or likely to result in breaches of international peace. I suggest the following definition of a State's duty in this respect:—

IX. Responsibility for Internal Government.

Every State shall at all times within its own boundaries, through the instrumentality of its own government—

(1) effectively preserve peace and maintain public order;
(2) guarantee security of life, person and property;
(3) prevent oppression;
(4) ensure impartial administration of justice;
(5) ensure compliance by persons under its jurisdiction with all international laws, conventions and obligations binding upon them.

There remains yet another large section of

international conduct which I think ought to be reduced to a basis of defined and recognised duty. In the case of all those with which I have been dealing thus far, the underlying moral purpose is the pursuit of justice and the common good. For the successful attainment of these two great purposes the presence of a third element is essential —the element of truth. Just conclusions cannot be drawn from false premises, and the pursuit of the common good has little chance of attaining its goal unless its initial direction and subsequent course are guided by an accurate knowledge of surrounding facts. Hence it becomes essential for securing the observance of international duties and the maintenance of international peace and order that there shall be adequate machinery for the ascertainment and recording of facts of international importance, and the acknowledgment of a duty on the part of all nations to disclose all facts of which a knowledge is required in the common interest. The collection of some facts will conveniently form a continuous and systematic process, while in other cases the facts will more appropriately be ascertained and sifted by means of special inquiries directed to particular issues. The public disclosure of facts is important not only for securing their availability but also as a check upon deception and inaccuracy.

The League of Nations provides appropriate machinery for the collection of facts through its Council, its Secretariat, its Commissions, its Bureaux, and its Permanent Court of International Justice. The Covenant goes some distance in the direction of prescribing a free disclosure of facts. Article 8, for example, provides that the members

of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes, and the condition of such of their industries as are adaptable to warlike purposes. In the case of disputes submitted to the League under Article 15 it is provided that the parties will communicate to the Secretary-General statements of their case, with all the relevant facts and papers, and that the Council may forthwith direct the publication thereof. Article 18 directs that every treaty or international engagement entered into by any member of the League after the Covenant comes into operation shall be forthwith registered with the Secretariat and shall as soon as possible be published by it, and no such treaty or international engagement shall be binding until so registered. Article 22 provides that in the case of every mandate the mandatory shall render to the Council an annual report in reference to the territory committed to its charge. These are instalments of the general duty which ought to be acknowledged by all civilised nations to ensure the necessary accessibility and predominance of truth. This duty I formulate as follows:—

X. Information and Evidence.

All States shall afford to the League of Nations and its Tribunals, Bureaux and Commissions, and to the Permanent Court of International Justice, all such information and evidence, within their power, as may be required for the purpose of the investigation of international questions, the settlement of international relations, and the adjustment of international differences.

Now, having dealt individually with these different branches of international conduct, I wish for a moment to consider as a whole the ten propositions at which I have arrived.

Shortly summarised, they comprise abstention from all aggressive war, consequential acceptance of peaceful methods for settlement of disputes, performance of agreements and obligations, avoidance of causes of injury and offence, co-operation in the maintenance of world-peace, facilitation of free movement of persons and goods, maintenance of satisfactory internal government, and disclosure of facts of international importance.

The form in which the duties are defined may be imperfect and incomplete, but, doubtless, with the aid of competent criticism and discussion more adequate forms of definition could be achieved.

These propositions contemplate the organisation of the world not as a federation, in which all the individuals within the federal territories would be in the direct relation of subjects to a common federal government, but as a community or society of independent States, each exercising sovereignty within its own territories subject to the limitations and responsibilities necessary to secure the common peace, the common welfare, and the reasonable freedom of all the other States comprised in the community.

They contemplate also that a spirit of truth and justice and a desire for the good of all humanity shall prevail within the organisation, linking all the States together in a common sentiment, and animating their collective action.

It may be said that a great change in the whole outlook upon international relations is involved in

these ten propositions, and that it will be difficult to bring such a change about. Of course, this is true enough, but they are blind who fail to see that the World-War has proved the necessity for fundamental changes in the international outlook. Mankind cannot afford to stand shivering on the brink of its own redemption, afraid to plunge in.

To anyone who seriously doubts whether such a change can be produced even by the united effort of many people in many lands, I would only say: "Look back over the last eight years and realise fully all that they have meant, and you will be tempted rather to doubt whether anything is impossible to united human effort."

To the present generation the call for a great effort to bring about some such change should appeal as irresistible. The men and women of to-day know from bitter experience what, under modern conditions, war has come to mean. They may well conclude that the time has passed for attempting merely to limit the terrors and inconveniences of war, and the day has arrived for accepting and proclaiming new views of international morality and for undertaking the task, arduous and difficult though it be, of putting International Law into such a form and upon such a plane that it shall serve to forestall and prevent the occurrence of war and to secure the regulation of international relations on just and reasonable lines.

THE FUTURE PROGRESS OF INTERNATIONAL ORGANISATION

In national politics the traditional and instinctive preference of the British people is for slow and steady progress. International politics, however, in this generation demand a quicker rate of progression. The paramount problem which the present generation is called upon to solve is the problem of so organising the world through the League of Nations that war, in its old sense, shall cease from off the face of the earth. Fate has decreed that the opportunity of performing this service for mankind should come to those now living. They cannot refuse the service. They dare not turn a deaf ear to the call. And the particular work needs boldness and rapidity in its performance. Three cogent reasons, at least, may be advanced for this view.

The first is that the main impulse that makes success in the work possible is the feeling of horror inspired in the hearts of men by the late war and all that it entailed. That feeling will pass. Indeed, there are signs that it has begun to pass already. Before it fades away the bulwarks of peace must be raised so high and so firmly that they cannot fall.

The second is that the evil against which international organisation is to be aimed is, as the late war has shown us, so colossal, and the chances of the production of consequences still more stupendous from a recurrence are so great, that we cannot afford to wait and risk the happening of even one more great war.

The third is that, from the very nature of the disease, the bold and quick administration of the remedy in full dose has advantages which a gradually strengthened dose would not possess. Few will deny that the maintenance of a strong armed force, even though it be intended as a defence against war, tends in itself to produce war. Banish war entirely and you remove the fear of war, and therefore the need and temptation to keep strongly armed. But let room for war be not wholly denied, but only limited and restricted, then the fear remains, the temptation to arm in defence is not removed and the insurance against war tends still to become the cause of war.

Therefore it is that in all that pertains to the League of Nations and the securities for the world's peace, we need to be on our guard not so much against the eager vision and bold tread of the young idealist as against the over-cautious hesitations and the backward glances of the elder statesmen.

Many possible steps in advance seem clear and obvious. Let me try to indicate some of them.

Popular interest and confidence are the very life-blood of the League of Nations. Public support is the security for its existence and effective working. Therefore nothing can be more important for the success of the League than that the

general public in every country shall have the fullest possible knowledge about the League and its doings and its field of operations, and the best possible facilities for influencing, criticising, and backing-up the League. In all these respects present achievements are hopelessly inadequate. The fault lies at the doors partly of the League itself, partly of the Governments of the member-States, and partly of the voluntary propaganda societies and their federation.

What is needed on the part of the League itself is a bolder resort to the practice of allowing the general public free access to meetings of the Council, and a much wider distribution and cheaper price for official publications. The problem of publicity for the Council's proceedings is probably complicated to some extent by the variety of the functions entrusted to the Council under the present constitution of the League. In part it acts as an executive committee, in part as a body for conciliating and mediating between disputants, in part as a tribunal for hearing complainants and respondents and giving decisions or recommendations for settlement of their differences, and in part as a quasi-legislative body. It seems reasonable to expect that, when the League has developed further, there will be some division of these functions which may ease the difficulties about publicity. But probably a good deal of progress might be made even now by courage and a prudent arrangement of business. When the Council is sitting as a tribunal, for example, it ought surely to be possible for arguments of disputants and evidence and reports on facts to be submitted entirely, or almost entirely, in public, and for the Council only

to close the doors when it is deliberating upon its decision or recommendation. And by the expression "in public," be it noted, I do not mean only in the presence of the Press or a few privileged persons, but in the presence of all decent and well-behaved people who wish to come and for whom room can reasonably be found.

As regards the member-States, the chief need is that they should facilitate democratic control over League affairs. Association of Parliament in the nomination or approval of delegates to the Assembly; free and open communication of facts to Parliament and parliamentary discussion as to the proceedings of the League and the policy pursued by the Government in connection with the League; and such organisation of the ministry of foreign affairs and such concentration of League of Nations business in its hands as will secure the fullest measure of ministerial responsibility and parliamentary control; these are the directions in which improvement needs most to be introduced.

As regards the voluntary propaganda societies the field for development is almost limitless. In a way the activities of such bodies seem almost more important than the political activities of the League itself; for they can provide the steam which will make the machine work, the atmosphere which is vital to success. To them falls the function of marshalling and directing and sustaining the forces of universal public opinion which alone can be relied upon to overcome the sluggishness and timidity of Governments and official organisations. They have to use their influence to compel the use of the co-operative and conciliatory processes of

the League and the avoidance of the pitfalls and temptations that lead the peoples into war. On them devolves the duty of spreading the knowledge and education among the people which are necessary for the creation of an intelligent public opinion. In Great Britain this work has made considerable progress, but much more still remains to be done. In most other countries the field is hardly trodden; while the federation which has been formed of the voluntary societies in different countries is as yet in its infancy. That federation has before it great possibilities of usefulness in co-ordinating and helping on the work of the national societies, bringing about sympathetic intercourse and increase of understanding and goodwill between the people of different countries, and thus intensifying the international spirit which is essential for the smooth working of the League.

Next in importance to this development of public opinion I should put the extension of the membership of the League to the countries at present outside. It seems likely now that before long Turkey may become a member, but as regards Germany, Russia, and the United States of America, the three greatest absentees, there are no very marked and definite signs pointing to an early accession. Probably what is most needed for hastening their entry is a more eager and persistent activity on the part of the Governments of the existing States of the League in seeking to bring it about. No doubt in this, as in other things, there is a risk that over-zeal in pursuit of an object may defeat its own ends; but I am afraid that in all matters connected with the League of Nations the greater risk is that timidity and lack of

conscious and well-directed effort may prevent or defer the realisation of benefits which boldness and zeal could successfully compass. Every consideration seems to point to the wisdom of making the League universal in its membership and operations. There is no part of its work whose efficiency would not be heightened if the League were a whole-world organisation ; no country outside the League which would not increase its security and reap greater gain than loss by coming inside ; no country, whether inside or outside the present League, which would not benefit from the advancement of the common good of humanity inevitably accompanying a universal League.

Some of the dangers and drawbacks arising from the incompleteness of the League's membership are obvious. It means greater possibility that the threat of war may arise ; less effective security for warding off war when it is threatened ; and risk of the division of the world into hostile groups, with all the burden of armament and the prevalence of fear and suspicion and jealousy that this entails. Less obvious, but no less real, is the disadvantage due to the contraction of the League's scope for usefulness, and the weakening of its power in those matters in which world-wide action alone permits the attainment of the best results.

Take, for example, two of the most beneficial purposes to which machinery for international co-operation can be applied: the development and codification of International Law, and the securing of uniformity or harmony between the laws of different nations on certain subjects. What inducement has the League to apply itself with industry or enthusiasm to these great tasks when the area

of law over which its members together exercise influence is so far from being complete?

Or take the economy in expenditure and other advantages which may be secured through the working out of an effective scheme for the limitation of armaments. Who can doubt the magnitude of the impediment which the incompleteness of the League's membership places in the way of the achievement of such a scheme?

Again, such problems as the introduction of a common currency and a common system of weights and measures, and the organisation of a central banking institution, a sort of world Bank of England, would be much easier to face and solve if all nations were inside the League.

These are only a few of the examples which can be cited for showing the practical disadvantages that flow from disunion among the nations and the practical benefits that can be achieved if the whole world is embraced within the one common organisation.

There is another great aim for which the hour calls and whose attainment would be rendered much easier by the widening of the membership of the League and the growth of world public opinion. I refer to the reform of the League's constitution by the introduction of such amendments as are necessary for the complete interdiction of war. The obstacles in the way of the attainment of this aim are powerful, but the benefits to be secured through it are overwhelming. Its early realisation involves a conscious effort on the part of the people of the different member-States and their rulers to curb the ever-present temptation to a narrow spirit of selfish nationalism. It demands a

recognition of the supremacy of the world's common good, with its logical consequences of submission to majority decisions and acceptance of a common burden of responsibility for the maintenance of peace and justice. It is of no use to underestimate the difficulty of effecting such changes in national habit and outlook, but when in our hearts we realise, in all their grim horror, the facts and consequences of the Great War, how can we hesitate to accept, with all its implications, the decree that there shall, there must, be no more war?

What form the prohibition of war should take is a matter which, when the occasion arises, will require very deliberate and exhaustive consideration. If the League is so enlarged that all the principal States of the world are included within its membership, perhaps it may be possible to have a covenant providing, in substance, that no State shall forcibly enter or seize territory or property belonging to or under the control of another State except with the authority of an order of the Permanent Court of International Justice.

Of the many objects of less importance whose pursuit is called for one might discourse at length, but, for brevity, I will here mention only one, which concerns the improvement of the existing machinery for carrying out the powers and purposes of the League. I have already referred to the variety and importance of the functions entrusted to the Council. It must be borne in mind that the Council is not a body of persons acting in their individual capacity, but a body of representatives of States. It is only natural and wise that the Governments of those States should desire, when

appointing such representatives, to choose men in whom they can repose full confidence and whom they can rely upon to pursue policies which they, the responsible Governments, are likely to be able to approve and support. It seems clearly advantageous, therefore, that decisions of the Council on the most important questions should be taken, as far as possible, at meetings at which the Foreign Minister of each "Council" State, or a representative possessing in some comparable measure the confidence and authority of his Government, attends and confers directly with similar representatives of the other Council States. It may well be a matter of difficulty to secure the attendance of such representatives from all the Council States at very frequent meetings. This points to considerable intervals between meetings at which the Council is to assemble in its full power.

On the other hand, it is highly important that, as the League grows in authority and influence and the volume and urgency of its work increases, its activities should not be impeded by delay in securing consideration and decision by the Council of urgent questions as and when they arise.

There seems room for the holding of intermediate meetings of the Council, to be attended by representatives who, while they would not speak with so great authority for their Governments as the representatives who attend on the most important occasions, could give more continuous attention to League business and could take part in preliminary inquiries and discussions, agree to decisions provisionally, and record formal votes within authorised limits or under special instructions. I think the time has arrived when the Government

of each Council State might have a resident representative at Geneva who would be able to discharge the functions just indicated, and would be in continuous touch with the work of the League and keep his Government constantly informed and advised upon the development of affairs and the movement of opinion at the seat of the League.

I would emphasise, in conclusion, that the promotion of the progress and development of the League of Nations is a cause that cannot safely be neglected or postponed. The hour calls to all, old and young alike, whether in this country or in other countries, and in whatever rank or vocation ; for all have a part to play in the supreme task of rescuing the world from the reality and the fear of war.